

EXHIBIT 39

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

- - - - -
JAMES D. SULLIVAN et al., individually and on
behalf of a class of persons similarly situated,
Plaintiffs,

Civil Action No.
v. 5:16-cv-00125

SAINT-GOBAIN PERFORMANCE PLASTICS CORPORATION,

Defendant.

- - - - -
Video-Recorded Deposition Upon Oral Examination of:
Philip K. Hopke, PhD

Location: First Federal Plaza
28 East Main Street
Rochester, New York 14614

Date: October 16, 2018

Time: 9:00 a.m.

Reported By: KIMBERLY A. BONSIGNORE

Page 2

A P P E A R A N C E S

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Also Present:

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Peter Colucci, Legal Video Specialist

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Page 3

1 P R O C E E D I N G S

2 TUESDAY, OCTOBER 16, 2018;

3 (Proceedings in the above-titled matter
4 commencing at 9:01 a.m.)

5 * * *

6 THE VIDEOGRAPHER: Good morning. We are
7 on the record at 9:01 a.m. Today is Thursday,
8 October 16, 2018.

9 This is the -- today is Tuesday -- excuse
10 me -- October 16, 2018. This is the videotaped
11 deposition of Philip Hopke, PhD.

12 My name is Peter Colucci, here with our
13 court reporter, Kim Bonsignore. We are here from
14 Veritext National Deposition Services.

15 This deposition is being held at First
16 Federal Plaza in Rochester, New York.

17 The caption of this case is "James D.
18 Sullivan et al. versus Saint-Gobain Performance
19 Plastics Corporation," Case Number 5:16-cv-00125 GWC.

20 At this time, will counsel please identify
21 themselves for the record.

22 MS. JOSELSON: I'm Emily Joselson from
23 Langrock, Sperry & Wool, for the plaintiffs.

24 MR. FLEMING: I'm Doug Fleming for the
25 defendant, Saint-Gobain Performance Plastics.

Page 4

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 THE VIDEOGRAPHER: Will the court reporter
3 please swear in the witness.

4 PHILIP K. HOPKE, PhD,

5 called herein as a witness, first being sworn,
6 testified as follows:

7 EXAMINATION BY MR. FLEMING:

8 Q. Good morning, Dr. Hopke.

9 A. Good morning.

10 Q. So you remember, I'm Doug Fleming --

11 A. Yes.

12 Q. -- and I represent defendant,

13 Saint-Gobain.

14 A. Yep.

15 Q. I took your deposition last time in April.

16 A. Right.

17 Q. Have we spoken since then?

18 A. No.

19 Q. So we went over the rules at the last
20 deposition, but just let's briefly discuss them again.

21 You understand you're under oath?

22 A. Yes.

23 Q. If you don't understand any questions
24 today, would you make sure you let me know that.

25 A. Yes.

Page 5

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Q. If you don't, we'll assume that you
3 understood the question.

4 Is that fair?

5 A. That's fair.

6 Q. And if we could try our best -- I'll try
7 my best if you try your best -- not to talk over each
8 other.

9 A. Yes.

10 Q. We'll wait until one of us has finished,
11 and then the next person will -- will go.

12 A. Right.

13 Q. That will make it easier for the court
14 reporter to take down the information, as you
15 experienced last time.

16 A. Correct.

17 Q. Okay. And --

18 MS. JOSELSON: I just want to put one
19 thing on the record. You let me know when you're
20 done.

21 MR. FLEMING: Go ahead, Emily.

22 MS. JOSELSON: Okay.

23 So I just want to put on the record that
24 this Court's August 17, 2018, Third Amended Discovery
25 Order is based on the Court's order of September 28,

Page 6

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING
2 2018, in which Judge Crawford made it clear that "The
3 completion of the depositions of plaintiffs' rebuttal
4 witnesses are limited to the opinions in their
5 August 1, 2018, reports. The party shall not use the
6 rebuttal depositions to reexamine the same witnesses
7 on matters already examined in their initial
8 depositions, except that the depositions may inquire
9 into opinions previously offered, but only to the
10 extent reasonably necessary to explore the opinions
11 stated in their August 1, 2018, reports."

12 I'm sure Counsel will abide by that order.

13 MR. FLEMING: Thank you.

14 Q. So I think I left off with us not talking
15 over each other. So thank you, Dr. Hopke.

16 In addition to that, if you'd try to
17 answer questions audibly, not with a shake of the head
18 yes or a shake of the head no or "uh-huh" or "huh-uh."
19 It's harder for the court reporter to take that down
20 as well. Okay?

21 A. Right.

22 Q. And I asked last time if you were taking
23 any medication that would impair your ability to
24 testify.

25 Have you taken anything that would impair

Page 7

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 your ability to testify here to the best of your
3 ability?

4 A. No, I have not.

5 Q. Okay. Thank you, Dr. Hopke.

6 So, Dr. Hopke, let's just mark a couple of
7 exhibits. I'll put them all in front of you, just to
8 make it more efficient, what's going to be Exhibits 1,
9 2, 3 and 4.

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Page 8

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 (The following exhibits were marked for
3 identification: Hopke EXH 1 through 4,
4 inclusive.)

5 Q. I'll give you a second to look at those,
6 Dr. Hopke.

7 MS. JOSELSON: Do you have a copy for me?
8 MR. FLEMING: I do, if you'll just give me
9 one second.

10 THE WITNESS: Okay.

11 (There was a pause in the proceeding.)

12 MR. FLEMING: Do you have the merits
13 report, Emily?

14 MS. JOSELSON: I have 1 and 2.

15 MR. FLEMING: Okay. There's 3.

16 There should be 4.

17 If I could take a look at your Exhibit 4,
18 Dr. Hopke.

19 THE WITNESS: Excuse me?

20 MR. FLEMING: If I could take a look at
21 it.

22 Yeah, I think it's the other one there.

23 MS. JOSELSON: It says 4.

24 MR. FLEMING: Yeah, I mistakenly gave you
25 that.

Page 9

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 THE WITNESS: You gave me 2.

3 MR. FLEMING: Yeah. Thank you, Dr. Hopke.

4 Q. Okay. So, Dr. Hopke, you've got four
5 exhibits in front of you. Have you had a chance to
6 look at them?

7 A. Yeah.

8 Q. Okay.

9 A. They are the materials that I prepared for
10 this case.

11 (The following exhibit was identified for the
12 record: Hopke EXH 1.)

13 Q. Right.

14 So Exhibit 1 is your original class
15 certification report dated September 1st, 2017, right?

16 A. That's correct.

17 (The following exhibit was identified for the
18 record: Hopke EXH 2.)

19 Q. And then Exhibit 2 is the declaration that
20 you submitted in support of class certification dated
21 October 2, 2017, right?

22 A. Correct.

23 (The following exhibit was identified for the
24 record: Hopke EXH 3.)

25 Q. And then Exhibit 3 is your merits report

Page 10

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING
2 that you submitted, and it's dated December 15, 2017,
3 right?

4 A. Correct.

5 (The following exhibit was identified for the
6 record: Hopke EXH 4.)

7 Q. And then finally is your rebuttal report
8 on class certification, and that's dated August 1st,
9 2018; is that correct?

10 A. Correct.

11 Q. So that Exhibit 4 I'll refer to as your
12 rebuttal report today. Okay?

13 A. Okay.

14 Q. How much time have you spent working on
15 this case in full, Dr. Hopke?

16 A. In full? About 62 hours that was not
17 related to the deposition, plus the preposition --
18 preparation in deposition last time, which was
19 something in the order of 18 to 20 hours. And then
20 about 10 to 12 hours in preparation for this
21 deposition, plus whatever it takes today.

22 Q. Okay. So I get -- my math with your high
23 range is -- somewhere in the order of about a hundred
24 hours; is that -- is my math right?

25 A. Yes.

Page 11

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Q. No, strike that. Sorry. 82 -- 12 -- 94
3 hours at the high range?

4 A. Something -- something in that area.

5 Q. Okay. And how much time have you billed
6 so far in the case?

7 A. Okay. We've billed all of the -- not --
8 you know, I -- you know, I don't do the billing. Or
9 Katherine Dare does the billing.

10 My understanding is that we would have
11 billed out the roughly 62 hours to plaintiff counsel,
12 and I'm reasonably sure that I billed out the
13 deposition to you.

14 Q. And about how much time do you think
15 you've spent working on the case since your last
16 deposition?

17 A. The 22 -- 21, 22 hours primarily on the
18 rebuttal, and then the time over this last weekend and
19 yesterday preparing for today.

20 Q. So since your last deposition, in terms of
21 work you've done, you've worked on your rebuttal
22 report; is that right?

23 A. Uh-huh.

24 Q. And you also prepared for this deposition
25 with counsel; is that correct?

Page 12

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. That's correct.

3 Q. Other than in your rebuttal report, have
4 you written about PFOA or APFO since your last
5 deposition?

6 A. No, I have not.

7 Q. Have you presented on APFO or PFOA since
8 your last deposition?

9 A. No, I have not.

10 Q. Have you brought anything with you to
11 today's deposition relating to the case or APFO or
12 PFOA?

13 A. Yes. Yeah. I have some odds and ends of
14 things. You know, my copy of the rebuttal report;
15 Mr. Chinkin's report; a small excerpt from the Barr
16 site report from doing the wipe tests; the rebuttal
17 report of Mr. Mears; the rebuttal report of Mr. Yoder;
18 the rebuttal report of Dr. Siegel; the journal papers
19 Barton 2009, Zhu 2007, and Shin 2011.

20 And I think that's -- that's it.

21 Q. Is that all, Dr. Hopke?

22 A. I think so.

23 MR. FLEMING: Okay. Thank you.

24 So let's mark that as a composite exhibit,
25 and that will be Exhibit 5, and these are the

Page 13

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING
2 materials that Dr. Hopke just listed that he brought
3 with him to today's deposition that relate to the case
4 or PFOA or APFO.

5 (The following exhibit was marked for
6 identification: Hopke EXH 5.)

7 THE WITNESS: Let's put that on something
8 where there's a fair amount of blank space.

9 MR. FLEMING: And I think I have a clip.
10 My clip is not going to be big enough, but
11 I'll try.

12 THE WITNESS: I'm not sure that's big
13 enough.

14 MR. FLEMING: Yeah.

15 THE WITNESS: Yeah. No, that ain't going
16 to work.

17 MR. FLEMING: You've worked in an office
18 for a while as well, I take it.

19 All right. Well, we'll try to keep that
20 together.

21 THE WITNESS: Try and keep the pile
22 separate.

23 MR. FLEMING: Yeah, terrific. Thank you.

24 Q. So, Dr. Hopke, for the 18 to 20 hours, if
25 I understood you correctly, or 22 hours working on

Page 14

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 your rebuttal report, what specifically did you do
3 within those -- within that time?

4 A. Well, I spent a lot of time, obviously,
5 reading Mr. Chinkin's report.

6 The other report, whose name I'll get
7 right now, that -- Mr. Fleischer's report.

8 Obviously, rereading some of the pertinent
9 literature: the Barton paper, the Zhu paper, the Shin
10 paper.

11 We had a teleconference with Dr. Shin.
12 We've had teleconferences with Mr. Yoder.

13 And then, you know, a fair amount of
14 writing and rewriting to try and make the rebuttal
15 report as -- as clear but as concise as possible.

16 Q. Okay. So you recall rereading Barton --
17 did you say 2009?

18 A. Yes.

19 Q. You recall rereading Zhu 2007?

20 A. That's correct.

21 Q. And Shin 2011?

22 A. Yes.

23 Q. Any other articles that you reviewed since
24 your last deposition that relate to your rebuttal
25 report?

Page 15

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. Yeah. I mean I -- I also reviewed the
3 other papers referenced.

4 Q. I'm sorry to interrupt. Are you reading
5 from your --

6 A. Rebuttal report.

7 Q. You're reading from your rebuttal report
8 where?

9 A. The list of references.

10 Q. Okay. So the last page, right?

11 A. Correct.

12 Q. Thank you.

13 A. So I -- I reviewed all of those papers.

14 Q. That are listed on the last page of your
15 rebuttal report, right?

16 A. That's correct.

17 Q. Okay. Any other papers beyond that?

18 A. Not that I can recall.

19 Q. Since your last deposition, have you
20 visited any processing facilities that may have
21 handled or processed PFOA or APFO?

22 A. No, I have not.

23 Q. Did you visit any of the plaintiffs' or
24 anyone else's homes in the area of Bennington or
25 North Bennington?

Page 16

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. No, I have not.

3 Q. Have you conducted any testing yourself
4 related to PFOA or APFO?

5 A. No, I have not.

6 Q. Has anyone done any testing of PFOA or
7 APFO on your behalf?

8 A. No, they have not.

9 Q. Are you relying on any actual testing data
10 relating to PFOA or APFO for your opinions in this
11 case?

12 A. No, because the Barr site report with the
13 wipe test came out after I had written the rebuttal
14 report and submitted it. I would have included
15 material from that had it come prior to the -- the due
16 date.

17 Q. And is that report that you just mentioned
18 within that composite collection that's Exhibit 5?

19 A. As I say, I've excerpted a small amount of
20 it because it was a very large report.

21 Q. Okay. Could you pull it out? I would
22 like to mark it as Exhibit 5A.

23 A. Okay. It's 351 megabytes, so...

24 (The following exhibit was marked for
25 identification: Hopke EXH 5A.)

Page 17

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Q. So I'll hand you back what's now
3 Exhibit 5A that was in your Exhibit 5 but now is
4 Exhibit 5A. It was my understanding it's a -- it's a
5 report by Barr relating to wipe sampling?

6 A. Yes.

7 Q. And did I understand you to say that
8 you're not relying on that because it came out after
9 you wrote your report?

10 MS. JOSELSON: Objection.

11 A. Correct.

12 Q. I'm sorry. You can answer.

13 A. That's correct.

14 Q. Between your original report on class
15 certification and your rebuttal report, do they
16 contain a complete statement of all of the opinions
17 that you intend to express on the issue of class
18 certification in this case?

19 A. Yes, I believe they do.

20 Q. Do your original reports -- I'm sorry.

21 Strike that.

22 Does your original report and your
23 rebuttal report contain all of the bases and reasons
24 for the -- for the opinions that you intend to express
25 on class certification in this case?

Page 18

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 MS. JOSELSON: Objection.

3 A. I believe they do.

4 Q. Do both of those reports likewise explain
5 all the facts or data that you considered when forming
6 the opinions on class certification that you intend to
7 express in this case?

8 A. I believe they do.

9 Q. Does your rebuttal report introduce any
10 new opinions that were not expressed in your original
11 class certification report?

12 A. No, it does not.

13 Q. Is there anything in your rebuttal report
14 that you would like to correct?

15 A. There is a typo on page 1 under
16 "Sublimation." The Zhu et al. should be 2007, not
17 2006.

18 I believe otherwise it is correct.

19 Q. Okay. And going back to your original
20 report on class certification, other than what you
21 identified at your prior deposition to be corrected,
22 is there anything else you've identified since that
23 deposition that you believe should be corrected in
24 your original class certification report?

25 MS. JOSELSON: Objection.

Page 19

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. I do not think so.

3 Q. And you had at Exhibit 4, which is your
4 rebuttal report, that last page that listed five
5 references, right?

6 A. That's correct.

7 Q. Are those all of the studies that you
8 relied on to form the opinions in your rebuttal
9 report?

10 A. No. I obviously -- I had the material
11 that I had previously read and referenced in the prior
12 report, and didn't necessarily re-reference them here
13 because they've already been described in prior
14 material.

15 Q. Okay. I think I understand.

16 So if I'm understanding you correctly --
17 please let me know -- for the opinions that you
18 express in your rebuttal report, you're relying on the
19 references cited in your original report, together
20 with the references cited in your rebuttal report; is
21 that fair?

22 MS. JOSELSON: Objection.

23 A. That's fair.

24 Q. Were there any materials that you
25 considered but did not rely on that are not listed in

Page 20

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING
2 either your original report on class certification or
3 your rebuttal report on class certification on the
4 issue of class certification?

5 A. I don't believe there are any others that
6 I relied on. I reviewed -- you know, there were
7 enormous numbers of documents, and I reviewed a large
8 number of them. But I think I have referenced all of
9 the ones for which I used to base the opinion.

10 Q. And the articles that are listed on page 5
11 of Exhibit 4, which is your rebuttal report on class
12 certification, how did you get those materials?

13 A. I downloaded them from the -- from the
14 web.

15 Q. And what were you looking for?

16 A. Again, trying to further document the
17 mechanism that I had espoused, and further under --
18 you know, again, to provide -- to provide some
19 additional clarification to the original statement
20 of -- of the nature of the chemistry going on as -- as
21 I believe it is occurring.

22 Q. And when you were trying to further
23 document the mechanism that you espoused, when did you
24 espouse the mechanism that you're referring to?

25 MS. JOSELSON: Objection.

Page 21

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. In the original classification report.

3 Q. And what mechanism did you espouse in the
4 original class certification report that you were
5 trying to further document in your search for your
6 rebuttal report?

7 A. That the PFOA would volatilize prior to
8 any opportunity to decompose into -- through
9 decarboxylation into a non-octanoic acid entity.

10 THE WITNESS: Sorry about that.

11 Q. And in your original report, am I correct
12 that you believed that the pH of the solution would
13 determine the extent to which there would be the
14 formation of PFOA?

15 A. No.

16 MS. JOSELSON: Objection.

17 A. No. It's because the -- the
18 volatilization is not coming from solution, and I
19 never indicated it was coming from solution. Or I
20 don't believe I ever indicated it was coming from
21 solution.

22 Q. If you did indicate that it was coming
23 from solution, you would have been wrong about that;
24 is that fair?

25 MS. JOSELSON: Objection.

Page 22

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. It would have been a misstatement.

3 Q. Let me just state it this way: If you did
4 indicate it was coming from solution, you don't agree
5 with that as you sit here today?

6 A. That's correct.

7 Q. So if it's not coming from solution,
8 what's the mechanism for this volatilization that you
9 were looking to support in your search for your
10 rebuttal report on class certification?

11 MS. JOSELSON: Object to the form.

12 A. Okay. Again, as -- as I outlined in the
13 rebuttal, what I believe is happening -- and, in fact,
14 is, to some extent, what Mr. Chinkin puts in his -- is
15 as the material dries, you're going to form ammonium
16 perfluorooctanoate crystals.

17 Q. APFO crystals?

18 A. APFO crystals, on -- at that -- at --
19 based on Barton and Zhu, et al., there will be a
20 transfer of a hydrogen from the ammonium to the PFO
21 minus. The ammonia will be volatilized from the
22 solid, and the PFOA will then sublime from the
23 surface.

24 And that occurs at temperatures
25 substantially below the point at which the PFOA will

Page 23

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING
2 decarboxylate. It will happen during the drawing
3 process and move away from the fabric as they
4 substantially move the air away in order to keep the
5 relative humidity above the drawing cloth low enough
6 to effectively dry the material.

7 There may be some additional sublimation
8 as it moves into the next zone, but it will all have
9 sublimed before -- at those temperatures, again,
10 before it has any chance to decarboxylate. And the
11 decarboxylation could not have happened without the
12 loss of ammonia.

13 Q. I think we'll be discussing that more
14 today. Thank you, Dr. Hopke.

15 The opinion that you just expressed, can
16 you cite any data from any processing facility, any
17 actual test data, that supports what you just said?

18 MS. JOSELSON: Object to the form.

19 A. I was unable to find any.

20 Q. Let me see if I can turn to some more
21 background, Dr. Hopke.

22 Have there been any updates to what I'll
23 call your professional activities since we last met at
24 your deposition?

25 A. Again, I've published another number of

Page 24

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING
2 papers. I don't remember exactly how many I had in
3 early April. I'm now up to 683 peer-reviewed journal
4 papers.

5 I was recently awarded the Fissan-Pui-TSI
6 Award by the International Aerosol Research Assembly.

7 I continue to -- to work with a variety of
8 institutions. I've been at Nankai University in
9 Tianjin and Tsinghua University in Beijing, doing
10 joint research.

11 Q. And have any of the papers that you just
12 mentioned that you published since your last
13 deposition relate -- related to PFOA or APFO in any
14 way?

15 A. No, they are not.

16 Q. The award that you just mentioned you
17 won -- and congratulations for that -- does that
18 relate to PFOA or APFO in any way?

19 A. No, it does not.

20 Q. The collaboration work that you just
21 mentioned with those universities overseas, did that
22 collaboration work relate to PFOA or APFO in any way?

23 A. No, it is not.

24 Q. Do you have an updated copy of your CV?

25 A. I can send one or I can provide one to

Page 25

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING
2 counsel.

3 MR. FLEMING: We would request an updated
4 copy of your CV.

5 (Document request - Updated copy of Hopke
6 curriculum vitae)

7 THE WITNESS: Sure. I'll do that when I
8 get home.

9 MR. FLEMING: Okay.

10 MS. JOSELSON: So I'll just ask that any
11 document requests you submit during this deposition,
12 you submit in writing form following the deposition,
13 and we will respond as appropriate.

14 Q. "Standard pressure," Dr. Hopke -- is
15 "standard temperature and pressure" a standard
16 chemical term used to describe a precise set of
17 conditions?

18 MS. JOSELSON: Objection.

19 A. Yes.

20 Q. And what's the temperature and pressure
21 for standard temperature and pressure?

22 A. One atmosphere, zero degrees Celsius.

23 Q. Is it fair to say it's pressure of 1 times
24 10 to the 5th power pascals?

25 A. It would be 1 -- it would be 101.43

Page 26

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 kilopascals, if I remember correctly.

3 Q. Now, we already discussed some of these
4 terms, but I think it's useful to maybe just go over
5 them again at the outset here.

6 "Volatility." What is volatility,
7 Dr. Hopke?

8 MS. JOSELSON: I'm going to object to this
9 line of questioning, which was asked and answered in
10 the first deposition.

11 MR. FLEMING: Thank you.

12 A. Okay. "Volatility" is a -- is a
13 nonprecise term with regard to the ability of a liquid
14 or solid to move into the gas phase.

15 Q. Would you say -- would you agree it's the
16 tendency of a substance to vaporize?

17 MS. JOSELSON: Objection.

18 A. Yes, but it's not -- not quantitative.

19 Q. Is it the same thing as sublimation?

20 A. Sublimation is a process for solid to move
21 into the gas phase.

22 Q. Is "volatilization" a simplified term for
23 sublimation?

24 MS. JOSELSON: Objection.

25 A. No. It covers both liquid and solid

Page 27

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 transformation into vapors.

3 Q. And how about "vaporization"? What is
4 vaporization?

5 A. That's the conversion of a liquid into a
6 vapor, under normal -- normal terminology.

7 Q. Is vaporization the same thing as
8 sublimation?

9 A. No.

10 Q. Do you use those terms interchangeably?

11 A. I shouldn't. I hope I have not done so.

12 Q. And then how would you define
13 "sublimation"?

14 A. Sublimation is the movement of molecules
15 directly from a solid into the vapor phase.

16 Q. And is that the same thing as evaporation?

17 A. Evaporation is normally associated with
18 liquids moving into the vapor phase.

19 Q. Is sublimation the same thing as
20 decomposition?

21 A. No.

22 Q. Is sublimation the same thing as
23 dissociation?

24 A. No.

25 Q. Let's talk about vapor pressure for a

Page 28

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 moment, Dr. Hopke.

3 Are higher vapor pressures more volatile
4 than lower vapor pressures?

5 MS. JOSELSON: Again, I'm objecting to
6 this entire line of questioning as asked and answered
7 in the first depo.

8 A. Yes.

9 Q. Is ice in a freezer set near zero degrees
10 generally volatile or stable?

11 A. There will be some sublimation from ice.

12 Q. So would you --

13 A. Depending -- depending on how closed the
14 system is, so that it -- because it will depend on the
15 relative humidity above the ice as to determining the
16 chemical potential for the movement of molecules into
17 the vapor phase.

18 Q. Do you happen to know the vapor pressure
19 of ice at negative 16 degrees Celsius, 3.2 degrees
20 Fahrenheit?

21 A. No, I don't know offhand. I would have to
22 look it up.

23 Q. If I told you it's 150.6 pascals, would
24 you say that ice water is volatile or stable at
25 negative 16 degrees Celsius?

Page 29

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 MS. JOSELSON: Object to the form.

3 A. It depends on what the overpressure is.

4 Q. How much ice -- how long do you -- strike
5 that.

6 How long do you think it would take ice to
7 sublime within a freezer at that temperature?

8 MS. JOSELSON: Objection.

9 A. It's impossible to say. You haven't given
10 an adequate description of the conditions.

11 Q. So how would you be able to determine
12 that?

13 MS. JOSELSON: Objection.

14 A. Again, it could be modeled if we knew the
15 mass of the ice, if we knew the actual pressure, if we
16 knew what the relative humidity was.

17 I mean, again, if we have a closed
18 container, then you will come to equilibrium, and we
19 could model equilibrium conditions.

20 If we have an open system where there is
21 exchange of -- of vapor, then we would need to know
22 what the change rate is, etcetera, etcetera.

23 So it's not -- not something that could be
24 answered simply.

25 Q. So if you were to model it -- if you

Page 30

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING
2 wanted to model it, you would need to know all of
3 those factors that you just identified to figure out
4 the rate of sublimation; is that fair?

5 A. And I would also need to know the surface
6 area.

7 Q. Which you mentioned is another factor.

8 A. Right.

9 Q. Okay. Or, instead of modeling it, you
10 could actually conduct a test, right?

11 A. Potentially.

12 Q. You couldn't conduct a test to figure out
13 the degree of sublimation?

14 A. Yeah. Again, I would need adequate
15 laboratory equipment and -- I mean I could -- I could
16 design an experiment.

17 Q. Okay. To figure out the rate of
18 sublimation.

19 A. Right.

20 Q. Dr. Hopke, can APFO sublime?

21 A. Yes. Based on Barton.

22 Now, the mechanism is as I described
23 before. Based on the work of Zhu, the transfer of the
24 proton from the ammonium to the PFO minus to produce
25 PFOA, the release of the ammonia, and then the

Page 31

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 sublimation of the PFOA.

3 Q. So you may have answered my next question,
4 but I'll ask it to make sure.

5 Can PFOA sublime?

6 A. Yes.

7 Q. Can APFO sublime in solution?

8 A. No, because it will be dissociated into
9 ammonium and PFO minus.

10 Q. Is it fair to say that in solution, in
11 Saint-Gobain's or CHEMFAB's coating fabric solutions,
12 the vast majority of the perfluorooctanoate is in the
13 PFO minus form?

14 MS. JOSELSON: Objection.

15 A. At the pHs described, that would be true.

16 Q. Can you quantify how much that vast
17 majority is?

18 A. Not directly. I would have to -- you
19 know, again, given that the pKa is around 3.3 and the
20 pHs were -- again, we know what the pH of the
21 dispersant was, but once you add water, that would
22 lower the pH. So I don't know what the precise pH was
23 in the actual solutions as used.

24 Q. How about the PFO minus? Can that
25 sublime at all?

Page 32

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. No.

3 Q. Can PFOA sublime in solution?

4 A. PFOA would only exist at pHs below
5 3 point -- well, below about 4 1/2 to 5. And then it
6 would be 50-50 at the pKa, which is something like
7 3.3.

8 There would be -- again, you would not --
9 you would have the potential for weak vaporization.
10 It would not be sublimation in this case because it's
11 going from solution.

12 Q. I think -- let me make sure I understand
13 it. I think you got to it at the end.

14 But the PFOA in solution, can PFOA in
15 solution sublime?

16 A. No.

17 Q. Is PFO minus volatile?

18 A. No.

19 Q. In fact, it can't volatilize, right?

20 A. It wouldn't volatilize.

21 Q. Even when the solution is heated, right?

22 A. Yes.

23 Q. How about APFO? Is APFO volatile?

24 A. No.

25 Q. Is PFOA volatile?

Page 33

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. Yes. That's -- it has -- it has a vapor
3 pressure.

4 Q. Does APFO have a vapor pressure?

5 A. Not directly, no.

6 Q. Can you cite any paper that would say that
7 APFO does not have a vapor pressure?

8 MS. JOSELSON: Objection.

9 A. No. I mean, you know, again, the
10 Barton et al. 2009 paper is looking at the
11 sublimation, but they are hypothesizing the
12 dissociation of the APFO into ammonia in PFOA and the
13 subsequent sublimation of the PFOA. So that the
14 effective sublimation of APFO is actually a two-step
15 process.

16 Q. Let me see if I can try to ask this
17 question just specifically to see if I can get an
18 answer to the specific question.

19 Can you cite any paper that says APFO does
20 not have a vapor pressure?

21 MS. JOSELSON: Asked and answered.

22 You can answer it again.

23 A. Not to my knowledge.

24 Q. Okay.

25 A. I mean...

Page 34

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 MS. JOSELSON: Were you still talking?

3 THE WITNESS: No. No. I'm better.

4 Q. When Saint-Gobain -- excuse me.

5 When Saint-Gobain or CHEMFAB received
6 materials at its facilities, did they come in the form
7 of APFO or PFOA? Can you explain your opinion on
8 that?

9 MS. JOSELSON: Objection.

10 A. As I understand it, they would come as --
11 primarily would come as solutions, which means that
12 you would have the, you know, ammonium ion and the PFO
13 minus in the solution, and they would...

14 And so they had, as I understand it,
15 again, both the dispersant, which would have the
16 Teflon particles, and the surfactant.

17 And they also had some additional
18 surfactant, because they -- as I understand it, they
19 also occasionally added additional surfactant to the
20 system.

21 Q. And if I was understanding your testimony
22 earlier and your rebuttal report, you believe that the
23 PFO minus and the ammonium ion in solution ultimately
24 will form a solid APFO; is that correct?

25 A. As the -- as the solution dries.

Page 35

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Q. As the solution dries.

3 A. As reported by Mr. Chinkin's comments on
4 my dep -- on my report.

5 Q. Are you relying on Mr. Chinkin's opinion?

6 A. Absolutely not. It just -- he agrees with
7 my mechanism.

8 Q. Where is this solid APFO formed?

9 A. On -- it's going to form primarily, I
10 think, on the surface of the Teflon particles, but it
11 could also form on the surface of -- surface of the
12 fabric.

13 Q. How long does it take for the solution to
14 be dried off in Saint-Gobain's processes?

15 MS. JOSELSON: Object to the form.

16 A. I don't know. I mean they --

17 Q. How long -- I'm sorry. Go ahead if you
18 weren't finished.

19 A. Again, they have presumably designed the
20 process to maximize the speed of that evaporation.
21 Exactly what they've done, I'm not sure.

22 Q. And can you quantify that speed in any
23 way?

24 A. No, I cannot.

25 Q. How long does it take for the APFO solid

Page 36

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 to be formed? Can you quantify that in any way?

3 A. No, I cannot.

4 Q. Now, when the APFO solid is formed, in
5 your opinion, does any of the PFO minus and ammonium
6 ions stay in solution in the evaporating water during
7 the drying process, in your opinion?

8 A. If it's still in -- if it's still in the
9 liquid phase, it would still be in the ionic form.

10 But, as we have said, as -- as the water
11 vapor goes off, you're going to wind up with these
12 small crystals of -- of APFO.

13 Q. And I think you referred to Zhu -- that's
14 Z-H-U, right? --

15 A. Uh-huh.

16 Q. -- before and in your report; is that
17 correct?

18 A. That's correct.

19 Q. And you cite a formula -- you can take a
20 look at your rebuttal report if it's helpful --

21 A. Uh-huh.

22 Q. -- on page 1 of your report, about
23 four-fifths of the way down, right?

24 A. Uh-huh.

25 Q. Starting with Na4?

Page 37

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. Correct.

3 Q. And what is that -- that formula,

4 Dr. Hopke? What does it provide?

5 A. Okay. Again, it provides a schematic
6 description of the fact that we have the formation of
7 the solid ammonium -- well, APFO.

8 We then have the transfer of a hydrogen
9 from the ammonium to the PFO minus. That's the second
10 entity.

11 At that point, then, the ammonia will
12 volatilize off from the surface of this crystal, and
13 we will be left with PFOA.

14 The PFOA then can sublime into the gas
15 space.

16 Q. And how did you come up with this formula,
17 Dr. Hopke?

18 A. Well, it's basically the same approach
19 that I've had all along; it just -- it seemed we
20 needed to have greater explication of the mechanism in
21 order to provide clarity.

22 Q. Your original report didn't mention
23 sublimation, right?

24 MS. JOSELSON: Objection.

25 A. No, it did not.

Page 38

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Q. But it had -- I'm sorry if you were going
3 to say something.

4 A. No.

5 Q. But how did you come up with this -- I'm
6 understanding you to say that you believe this was
7 your opinion all along.

8 But whenever it was your opinion, how
9 did -- how did you come up with this particular
10 formula? What are you basing it on? What's your
11 support for it?

12 Let me -- let me strike that. I'll ask
13 one question.

14 What's your support for this formula that
15 you cited on page 1 of your rebuttal report?

16 A. Okay. The proton transfer is analogous to
17 what Zhu reports, and it's also what Barton et al.
18 hypothesize as the mechanism for the sublimation they
19 see in their 2009 paper.

20 Q. Now, Zhu is based on ammonium chloride,
21 right?

22 A. That's correct.

23 Q. Not APFO?

24 A. That's correct.

25 Q. Not PFOA?

Page 39

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. That's correct.

3 Q. Not a salt -- I'm sorry. Not an acid?

4 MS. JOSELSON: Objection.

5 A. What are you --

6 Q. Strike that, unless you want to comment.

7 A. What's not an acid?

8 Q. Okay. Strike -- I'll -- I'll rephrase or
9 skip the question. I'll withdraw the question.

10 A. Okay.

11 Q. So is this formula based on -- strike
12 that.

13 You cite Zhu 2007 to support this formula
14 that you have on page 1; is that fair?

15 A. That's correct.

16 Q. Do you find the conclusions of Zhu to be
17 reliable as it relates to your opinions in this case?

18 A. Yes.

19 Q. And those are the conclusions about the
20 scheme or formula that Zhu proposed for the
21 sublimation of ammonium chloride, right?

22 A. That's correct.

23 Q. And have you concluded that the mechanism
24 that Zhu suggested applies to APFO or PFOA?

25 A. Yes. By analogy, it should be the same.

Page 40

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Q. Have you concluded to any reasonable
3 degree of scientific certainty that Zhu's mechanism
4 applies to APFO or PFOA?

5 A. I have a high degree of probability that
6 that is, in fact, correct.

7 Q. Do you have a reasonable degree of
8 scientific certainty?

9 You're looking at your attorney.

10 A. No. I mean I'm just trying to -- I mean
11 I'm -- I'm quite certain that that is, in fact, the
12 case.

13 Q. What would you have to do to form a
14 reasonable degree of scientific certainty that Zhu's
15 mechanism that Zhu proposed applies to PFOA or APFO?

16 MS. JOSELSON: Objection.

17 A. Again, we have the evidence of the
18 Barton et al. work showing that, in fact, the APFO
19 sublimes.

20 So, you know, the combination of the two
21 papers makes it very clear that this is a very highly
22 probable mechanism by which this occurs.

23 Q. And was it Barton you just said?

24 A. Right.

25 Q. Right.

Page 41

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. In 2009.

3 Q. Did Barton say it was highly probable that
4 this mechanism occurs with APFO or PFOA?

5 A. They hypothesized that that was the -- how
6 they explained it.

7 Q. Did they describe it as highly probable,
8 like you just did?

9 MS. JOSELSON: Objection.

10 A. They did not describe it in -- they did
11 not describe it in those terms.

12 Q. Have you identified any peer-reviewed
13 paper that concludes that this sublimation mechanism
14 from Zhu, as set out in your rebuttal report, actually
15 applies to APFO or PFOA?

16 MS. JOSELSON: Objection.

17 A. Again, the Barton report refers to Zhu and
18 uses it as its hypothesis for what they were
19 observing.

20 Q. Did Barton conclude that the Zhu mechanism
21 for ammonium chloride actually does apply to APFO or
22 PFOA?

23 MS. JOSELSON: Objection.

24 A. Again, in science one provides reasonable
25 hypotheses.

Page 42

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 They did not, for example, measure the
3 ammonia, and so they would not have been in a position
4 to have all of the details needed.

5 Q. So they hypothesized that it may apply; is
6 that fair?

7 MS. JOSELSON: Objection.

8 A. Yes, but it's -- again, the reasonable --
9 again, chemists reason by analogy. And this -- we
10 have very good evidence from Zhu. We have the
11 sublimation at -- in Barton. The analogous mechanism
12 is, therefore, highly plausible.

13 Q. Did you find the sublimation of ammonium
14 chloride in Zhu to be an appropriate comparator when
15 considering the sublimation of APFO and PFOA?

16 MS. JOSELSON: Asked and answered.

17 You can answer it again.

18 A. Yes, because it's logical for the
19 hydrogen transfer, the proton transfer from the base
20 group from the ammonium to the acid group. In that
21 case, the acid is hydrochloric acid; in this case,
22 it's PFOA.

23 Q. Are there other salts that are good
24 analogs for APFO with regard to sublimation?

25 A. I don't know. I haven't looked.

Page 43

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Q. Is ammonium perfluorobutanoate a salt?

3 A. Yes.

4 Q. Do you think that would be a good analog
5 for ammonium perfluorooctanoate?

6 A. Not -- not sure. A smaller chain may have
7 somewhat different properties.

8 Q. You think it's a better analog than
9 ammonium chloride for APFO?

10 A. I wouldn't want to speculate without
11 looking further.

12 Q. You would have to look further to have an
13 expert opinion on that question?

14 A. That's correct.

15 Q. Does perfluorobutanoate have multiple
16 fluorine atoms attached to the carbon, as with APFO?

17 A. Yes, it would.

18 Q. Does perfluorobutanoate have a carboxyl
19 group, as with APFO?

20 A. Yes.

21 Q. Does ammonium chloride have any fluorine
22 or any carbon atoms?

23 A. No.

24 Q. Does ammonium chloride have any carboxyl
25 group?

Page 44

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. No.

3 Q. Does ammonium chloride undergo thermal
4 decomposition or decarboxylate?

5 A. It undergoes dissociation and
6 volatilization via the mechanism of Zhu, but it would
7 not have decomposition.

8 Q. Would ammonium chloride decarboxylate?

9 A. No. It cannot.

10 Q. Can ammonium perfluorobutanoate
11 decarboxylate?

12 A. Potentially.

13 Q. You may take a look at the Zhu paper that
14 you cite as a reference.

15 MS. JOSELSON: I like to take a break
16 every hour. So it's been about an hour. You let me
17 know when you're ready.

18 MR. FLEMING: Sure. Why don't I mark this
19 paper, Emily, and I'd be happy to do that.

20 MS. JOSELSON: After the break?

21 MR. FLEMING: No. I'm going to mark it
22 now, since the question was relatively pending before
23 you requested it. So I'll just complete this thought
24 that I had before break, if I may. It will only be a
25 minute or two, if that's all right.

Page 45

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 MS. JOSELSON: I don't think there's a
3 question pending.

4 MR. FLEMING: So I think we're on
5 Exhibit 6.

6 THE WITNESS: Or we can make it 5B.

7 MR. FLEMING: Oh, is it in your stack?

8 THE WITNESS: Yeah.

9 MR. FLEMING: Okay. That's a fair point.
10 Thanks, Dr. Hopke. Maybe that will speed it up too.

11 So we're going to mark not Exhibit 6, but
12 Exhibit 5B, because Dr. Hopke has his own paper -- own
13 copy of the paper that is Zhu 2007.

14 Q. And again, Dr. Hopke, this is Zhu 2007.
15 This is the same Zhu that you're relying on in your
16 rebuttal report, right?

17 A. That's correct.

18 Q. And your rebuttal report -- just to be
19 clear, not to belabor it -- referred to it as Zhu
20 2006. But it's Zhu 2007, right?

21 A. Right. It's a typo.

22 MR. FLEMING: So let's mark this as
23 Exhibit 6A [sic], and then we can take a break for
24 Ms. Joselson.

25 (The following exhibit was marked for

Page 46

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 identification: Hopke EXH 5B.)

3 MR. FLEMING: So 2007 is 5B.

4 THE WITNESS: That's correct.

5 MR. FLEMING: Thank you for the
6 correction.

7 THE VIDEOGRAPHER: The time is 10 o'clock.

8 We're off the record.

9 (The proceeding recessed at 10:00 a.m.)

10 (The proceeding reconvened at 10:07 a.m.;
11 appearances as before noted.)

12 THE VIDEOGRAPHER: The time is 10:08.

13 We're back on the record.

14 MR. FLEMING: All right. We're back on
15 the record.

16 PHILIP K. HOPKE, PhD, resumes;

17 CONTINUING EXAMINATION BY MR. FLEMING:

18 Q. Are you ready to go, Dr. Hopke?

19 A. Yes, I am.

20 Q. Thank you.

21 So you have Exhibit 4 in front of you,
22 Dr. Hopke, which is your rebuttal report at page 1.
23 It's that formula?

24 A. Uh-huh.

25 Q. And then if you have Exhibit 5B, which is

Page 47

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Zhu 2007, there's a formula there on page 13831.

3 I would like to ask you about both of
4 those. Okay?

5 A. Yes.

6 Q. So in your rebuttal report, Dr. Hopke,
7 underneath the formula, it has what I'll call a
8 legend. The formula refers to, among other things, an
9 "s," an "a," and a "g"; is that fair?

10 A. That's correct.

11 Q. And you write in your report that the "s"
12 represents solid crystals; is that correct?

13 A. That's correct.

14 Q. "A" represents material on the crystal
15 surface; is that correct?

16 A. That's correct.

17 Q. And "g" represents the gas phase; is that
18 correct?

19 A. That's correct.

20 Q. And then if you take a look at the
21 Scheme 1 of Zhu in the article that is 5B, on page
22 13831 there's a scheme there that -- that your scheme
23 mimics; is that fair?

24 A. That's correct.

25 Q. And if you turn to page 13833 -- I'm

Page 48

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 sorry. Strike that.

3 If you turn to page 13831, you'll see
4 those same codes, if you will, in the left column.

5 So I'll read it. It refers to Scheme 1,
6 where "s" denotes solid, just like yours, right?

7 A. Yes.

8 Q. "A" denotes absorb species.

9 Is that the same as yours?

10 A. Yes.

11 Q. And "g" denotes the gas phase species,
12 right?

13 A. Correct.

14 Q. So you're following Scheme 1 in Zhu; is
15 that correct?

16 A. That's correct.

17 Q. And in terms of what's going on with
18 these -- with this scheme, am I right that there are
19 three steps here?

20 Do you see in Zhu where it refers to "1,"
21 "2," and "3"? That's Scheme 1.

22 A. Yeah. I mean -- yes, basically it's --
23 you know, it's the same mechanism by analogy.

24 Q. And is Step 1 showing internal
25 rearrangement?

Page 49

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Is that fair?

3 A. Yes.

4 Q. And is Step 2 showing dissociation?

5 Is that fair?

6 A. Yes.

7 Q. And Step 3 is desorption?

8 A. Yes.

9 Well, again, it depends on how you -- you
10 can talk about it as desorption; you can talk about it
11 as sublimation. I mean the overall process of
12 converting the solid into the vapor is sublimation.
13 The individual step might be just -- might be
14 desorption.

15 Q. But is this Scheme 1 important to your
16 opinion on sublimation for PFOA or APFO?

17 A. It provides support to the idea that
18 sublimation would be important for PFOA.

19 Q. What did you do to satisfy yourself that
20 this mechanism that is Scheme 1 is actually correct,
21 if anything?

22 A. Again, it -- it, in combination with
23 Barton 2009, provide a very -- a highly certain
24 support for the fact that they can see the sublimation
25 of APFO.

Page 50

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Q. Can you cite anyone who adopts this
3 Scheme 1 from Zhu for PFOA or APFO?

4 A. Well, again, Barton uses it as their
5 hypotheses for what they're seeing with the APFO.

6 I have not extensively looked to see if it
7 has been replicated elsewhere for other ammonium
8 salts.

9 Q. Can you cite any paper that adopts
10 Scheme 1 even for ammonium chloride?

11 A. I have not looked.

12 Q. So what's your support for concluding that
13 Scheme 1 would apply to ammonium chloride?

14 A. Because it -- it fits what we would know
15 about the likely chemistry in this case.

16 Q. But even -- even Zhu doesn't believe that
17 Scheme 1 applies to the sublimation -- strike that.

18 Even Zhu doesn't believe that Scheme 1
19 applies to ammonium chloride; isn't that right?

20 A. No, that's not correct.

21 Q. Did you read Zhu thoroughly, Dr. Hopke?

22 A. I believe so.

23 Q. If you'd turn to page 13835.

24 A. Yes.

25 Q. Do you see at section 3.6 --

Page 51

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. Yes.

3 Q. -- do you see where Zhu -- reading from,
4 again, Exhibit 5B -- says, quote, "On the basis of the
5 above discussion, we suggest that the
6 sublimation/dissociation reaction is a multi-stage
7 process which takes place as shown in Scheme 2."

8 A. Uh-huh. Which is a little more
9 complicated, but it's not very different. I mean it
10 still represents a similar overall process.

11 Q. Why is it that you choose to rely on
12 Scheme 1 when the paper you cite, Zhu, actually
13 rejects Scheme 1 and proposes Scheme 2?

14 MS. JOSELSON: Objection.

15 You can answer.

16 A. Again, I'm trying to present this material
17 in a way that is more easily understood. And the fact
18 that Barton -- you know, again, the combination of the
19 Barton and Zhu suggests that this approach is a -- is
20 a good explanation of what's going on.

21 And clearly there has to be the proton
22 transfer to the chlorine in order to provide the
23 sublimation of the ammonium chloride.

24 Q. You're relying on Zhu 2007 for your
25 opinions in this case, right?

Page 52

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. Yes.

3 Q. Zhu adopts Scheme 2, not your Scheme 1,
4 right?

5 MS. JOSELSON: Objection.

6 A. Yes. Yeah.

7 Q. Can you cite any other researcher that
8 rejects Zhu's proposal that Scheme 2 applies with
9 respect to sublimation?

10 A. No.

11 Q. Can you cite any other researcher that
12 adopts Scheme 1 which Zhu did not propose in its paper
13 that you're relying on?

14 MS. JOSELSON: Objection.

15 A. No.

16 Q. Have you, before this deposition,
17 considered in any way how the application of Scheme 2
18 instead of Scheme 1 could affect your opinions in this
19 case?

20 A. Yes, I've reviewed it. I didn't see that
21 it made a major difference, because this is describing
22 the equilibrium configurations on the ammonium
23 chloride.

24 So, again, we're getting more complex, and
25 in that -- again, trying to explain this in -- in

Page 53

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 terms that made easy sense, I chose to adopt Scheme 1.
3 They're not that substantially different in -- in
4 underlying chemistry.

5 Q. If we take a look at Scheme 2, Dr. Hopke,
6 in Zhu, which Zhu proposes is the actual --

7 A. Uh-huh.

8 Q. -- mechanism for sublimation of ammonium
9 chloride, is it fair to say that there are three codes
10 there?

11 There's "C," which refers to the
12 crystalline structure, right?

13 A. Uh-huh.

14 Q. There's "S," which refers to the relaxed
15 surface, right?

16 A. Yes.

17 Q. And then there's "G," which refers to the
18 gas phase, right?

19 A. Correct.

20 Q. Am I right that in the first phase of the
21 three here, we have surface reconstruction?

22 A. That's what's proposed.

23 Q. And am I right in the second phase, we
24 have sublimation and surface desorption?

25 A. Yes.

Page 54

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Q. And then finally we have dissociation; is
3 that right?

4 A. Yes.

5 Q. Have you researched the relative rates of
6 volatilization of APFO and PFOA since your last
7 deposition, Dr. Hopke?

8 A. No, I have not.

9 Q. So as you sit here today, can you quantify
10 the rates of volatilization for APFO versus PFOA?

11 A. No, I cannot.

12 Q. At page 1 of your rebuttal report,
13 Dr. Hopke, you state that -- you refer to the
14 sublimation process, and you say it's "slow" -- quote,
15 "slow at room temperature, but it increases as the
16 temperature increases"; is that right?

17 A. That's correct.

18 Q. Have you calculated that rate of
19 sublimation for PFOA or APFO?

20 A. No. I relied on Barton 2009.

21 Q. Have you calculated it at any given
22 temperature?

23 A. No, I have not.

24 Mr. Chinkin's report also indicates it
25 would sublime at 130 C.

Page 55

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Q. What would sublime at 130 degrees Celsius?

3 A. PFOA.

4 Q. How -- how quickly would it sublime? What
5 would the rate be, Dr. Hopke?

6 A. We don't know. I don't know. Again, it
7 depends on the crystal size and other conditions.

8 Q. And do you have any data that would show
9 you the crystal size or those other conditions?

10 A. No, I do not.

11 Q. Have you looked for that data?

12 A. Yes.

13 Q. Where did you look?

14 A. I searched the literature. No one has
15 really looked in detail at this corporate process.

16 Q. You haven't seen any reports or test data
17 that would -- that would show you the rate of loss
18 relating to PFOA or APFO?

19 A. No, I have not.

20 Q. And your rebuttal report discusses the
21 decarboxylation of PFOA; am I right about that,
22 Dr. Hopke? At page 2?

23 A. Yes.

24 Q. Under what conditions, in your opinion,
25 does the decarboxylation of PFOA occur?

Page 56

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. At -- again, based on the literature, at
3 temperatures above 165 C. But it's the
4 decarboxylation of PFOA, not the decarboxylation of
5 APFO.

6 Q. And what are you relying on to say that
7 PFOA decarboxylates beginning at above 165 degrees
8 Celsius?

9 A. There was -- okay. I'd have to go back
10 and look for it. There was materials properties that
11 indicated it started to decompose at 165.

12 And then, of course, there was also the
13 Krusic papers, showing that it decarboxylated at high
14 enough temperatures.

15 Q. And what's the rate of decarboxylation at
16 165 degrees Celsius?

17 A. I don't know.

18 Q. Can there be -- can there be
19 decarboxylation of APFO, Dr. Hopke?

20 A. No.

21 Q. Can you cite any papers that say that APFO
22 won't decarboxylize?

23 A. Not directly, no.

24 Q. Can you cite any papers that say that APFO
25 won't decompose?

Page 57

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. No.

3 Q. Are you aware of papers that say that APFO
4 can decompose?

5 A. Yes.

6 Q. Are you relying on those papers for your
7 opinions here?

8 A. I am -- I have certainly included looking
9 at the -- at the Krusic papers.

10 Q. And do you reject Krusic's findings about
11 APFO and decomposition?

12 A. Yeah. Again, the -- again, the question
13 is what's the underlying mechanism. Is it -- what
14 we're thinking happens is that we have to have the
15 volatilization of the APFO into PFOA, and then the
16 subsequent decarboxylation.

17 Because you've got to get to the point
18 where you have the acid, because then you can get the
19 hydrogen transferring back to the carbon atom and
20 release the CO₂. But it's not going to happen if
21 there's the ammonia attached to the acid group,
22 ammonium attached --

23 Q. Let me make sure --

24 MS. JOSELSON: Let him finish first.

25 MR. FLEMING: Thank you.

Page 58

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Q. Were you finished, Dr. Hopke?

3 A. So it's the ammonium that's attached to
4 the carboxylic acids.

5 Q. Thank you.

6 And, Dr. Hopke, I don't certainly mean to
7 interrupt you. So if there's ever a time where we're
8 speaking over each other --

9 A. Yeah.

10 Q. -- you know, definitely let me know that.

11 MS. JOSELSON: I'll let you know.

12 A. I think we've been working better this
13 time.

14 Q. What's that?

15 A. I think we've been working better this
16 time.

17 Q. I think so too. I think so too.

18 So let me see if I understand, Dr. Hopke.
19 Do you agree or disagree with Krusic's conclusions
20 about APFO and decomposition?

21 A. Again, it will decompose into his
22 circumstances because he's got a closed container.
23 And the PFOA, once it's released from the APFO, then
24 is heated to a temperature at which it can
25 decarboxylate.

Page 59

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 If, on the other hand, you have an open
3 system where the material can move away from the heat
4 into the ventilation system and up the stack, it's
5 going to remain as PFOA because it's not going to be
6 at a high enough temperature long enough to
7 decarboxylate.

8 Q. Can you cite any paper or any test data
9 that supports the view that APFO would decompose only
10 in that closed container that Krusic used?

11 A. No.

12 Q. So let's take a look at the Krusic and Roe
13 papers.

14 Give me a moment and I'll get them.

15 A. Okay. Yeah, I didn't bring those.

16 Q. Sure.

17 A. We went all through those last time.

18 MS. JOSELSON: I'll object.

19 MR. FLEMING: This is Exhibits 6 and 7.

20 (The following exhibits were marked for
21 identification: Hopke EXH 6 and 7.)

22 Q. So, Dr. Hopke, I've handed you two sets of
23 papers marked Exhibit 6 and Exhibit 7.

24 A. Uh-huh.

25 Q. And they're both by Krusic, right?

Page 60

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. Yes.

3 (The following exhibit was identified for the
4 record: Hopke EXH 6.)

5 Q. Exhibit 6 is Krusic 2004, right?

6 A. Yes.

7 (The following exhibit was identified for the
8 record: Hopke EXH 7.)

9 Q. And Exhibit 7 is Krusic 2005, right?

10 A. That's correct.

11 MS. JOSELSON: I'm going to object to this
12 entire line, as I have been, as having been asked and
13 answered and relating to the first deposition.

14 Q. Dr. Hopke, Krusic and Roe in 2004,
15 Exhibit 6, measured the decarboxylation rate of APFO
16 in glass, right?

17 A. Yes.

18 Q. And in particular, they measured it by
19 measuring the decarboxylation product of APFO, which
20 is 1H-Perfluoroheptane, right?

21 A. Yes.

22 Q. And if you take a look at page 3800 in the
23 second sentence, do you see where it says, quote, "We
24 find that APFO cleanly decomposes by first-order
25 kinetics to give the hydrofluorocarbon

Page 61

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 1H-Perfluoroheptane, and is completely decomposed,
3 greater than 99 percent in a matter of minutes at the
4 upper limit of this temperature range."

5 Did I read that correctly?

6 A. Yes.

7 Q. And do you agree with that statement,
8 Dr. Hopke?

9 A. I believe that that's what they reported.

10 Q. Do you believe that those results are
11 reliable?

12 A. I have no reason not to.

13 Q. Do you believe that those results are
14 reliable as applied to Saint-Gobain's or CHEMFAB's
15 processes?

16 A. No.

17 Q. And is that because this test was done on
18 glass?

19 A. And at temperatures higher than I think
20 the PFOA would actually experience. But even here
21 it's still a question of what the underlying mechanism
22 is.

23 And, again, I would suggest to you that
24 the underlying mechanism is the sublimation of the
25 PFOA, followed by the decarboxylation at these higher

Page 62

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 temperatures.

3 Q. You also cite Krusic 2005 at page 2 of
4 your rebuttal report, right?

5 A. Yes.

6 Q. And am I right that Krusic 2005 reports on
7 APFO decarboxylation as well?

8 A. No. I think it reports on PFOA
9 decarboxylation.

10 Q. Doesn't it also report on APFO
11 decomposition not in glass, but in quartz?

12 A. In quartz, yeah. And it's very slow.

13 I'd have to go back and -- I did not
14 reread this over the weekend, so...

15 Q. But am I right that --

16 MS. JOSELSON: Let him just review the
17 document that you've handed him.

18 MR. FLEMING: He can take all the time
19 that he would like --

20 MS. JOSELSON: Thank you.

21 MR. FLEMING: -- to review the document.

22 Q. Dr. Hopke, would you like more time to
23 review the document?

24 A. Yes, just please --

25 MS. JOSELSON: He just said he did, Doug.

Page 63

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 MR. FLEMING: Emily, please don't obstruct
3 the deposition. Please don't.

4 MS. JOSELSON: Please don't interrupt the
5 witness --

6 MR. FLEMING: I'm not interrupting the
7 witness.

8 MS. JOSELSON: -- when he's reviewing a
9 document.

10 MR. FLEMING: Come on. I'm being very
11 respectful, and I've had a lot of forbearance with
12 your objections. So I'd ask you to please stop --

13 MS. JOSELSON: I've had a lot of
14 forbearance with your questions --

15 MR. FLEMING: -- so we can continue with
16 the deposition.

17 MS. JOSELSON: -- that continue to ask
18 questions from the first deposition. So we're
19 mutually respectful.

20 MR. FLEMING: Emily, you're aware that
21 this report is cited in his rebuttal report, aren't
22 you?

23 MS. JOSELSON: Yes, and I'm asking you to
24 give him a moment to read it.

25 MR. FLEMING: And I said I would. Of

Page 64

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 course I will.

3 Q. Dr. Hopke, if there's any time you would
4 like to review a document --

5 MS. JOSELSON: Just be quiet and let him
6 read, Doug.

7 MR. FLEMING: No, you can't tell me to be
8 quiet, Emily.

9 MS. JOSELSON: He's trying to read the
10 document.

11 MR. FLEMING: I'm taking a deposition.
12 I'm trying, actually, to adhere to what you're telling
13 me.

14 MS. JOSELSON: Then be quiet and let him
15 read.

16 MR. FLEMING: Don't tell me to be quiet,
17 Emily. That's not professional or respectful.

18 Q. Dr. Hopke, if there's any time you would
19 like to review a document, would you let me know that?

20 A. Certainly.

21 Q. Thank you.

22 A. I don't see any indication that they
23 looked at APFO in this paper. It all seems to be
24 PFOA, unless I'm missing something on a quick read.

25 Q. Okay. So if you'd take a look at page

Page 65

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING
2 1514, Dr. Hopke.

3 A. Yes.

4 Q. And do you see above number 4,
5 "Experimental"?

6 A. Yes. Yeah, okay.

7 Q. So it's there, right?

8 A. Yeah. I missed it.

9 Q. Okay.

10 MS. JOSELSON: Would you like more time to
11 review it, now that you've found it?

12 THE WITNESS: Okay. That's a strange
13 paper, because "Conclusions" come before
14 "Experimental." That's -- that's what confused me.

15 Okay. So I need to find out what the
16 conditions were. That's where they put it with the
17 crushed glass, if I remember correctly.

18 MS. JOSELSON: Dr. Hopke, just take your
19 time to review the document if you need to.

20 THE WITNESS: Okay. I have trouble
21 understanding how they -- yeah, I had trouble -- yeah.
22 If you look at all of the figures --

23 MS. JOSELSON: I don't think there's a
24 pending question.

25 THE WITNESS: Huh?

Page 66

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 MS. JOSELSON: I don't think there's a
3 pending question. So you just complete your review,
4 and when you've completed it, you can let Doug know.

5 THE WITNESS: Okay.

6 Q. Dr. Hopke, were you about to comment on
7 something that you found important from your review?
8 Can you explain what you were about to say?

9 MS. JOSELSON: Object to the form.

10 A. Yeah. All of the figures show PFOA. So
11 the conclusion with regard to APFO does not seem to be
12 supported by any of the data presented in the paper.

13 Q. And to make sure we have a frame of
14 reference, Dr. Hopke, again this is Exhibit 7 that
15 you've been reviewing, right?

16 A. Yes.

17 Q. And Exhibit 7 is cited in your rebuttal
18 report, right?

19 A. Yes.

20 Q. You had reviewed -- did you review
21 Exhibit 7 in connection with your original report on
22 class certification back in April?

23 A. Yes, I did.

24 Q. So you've had a lot of time to review this
25 article, other than at this deposition -- in addition

Page 67

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 to this deposition today, right?

3 A. Right. But there has been lots and lots
4 of things to review, and -- and I did not specifically
5 go back and look at this one for this deposition,
6 because we covered it in detail in April.

7 Q. This is -- you're looking at your
8 attorney. Is there any reason?

9 MS. JOSELSON: Yeah. Because the Court's
10 order, Doug, is that you're not to revisit questions
11 that were asked and answered in the first depo.
12 That's why he's looking at me, because I explained to
13 him what the Court ordered.

14 Q. Okay. So you cited this again in your
15 rebuttal report that I'm taking your deposition on
16 today, right? This Krusic paper that we're talking
17 about?

18 A. Yes.

19 Q. Now, Krusic in 2005 states, does he not,
20 "By contrast, the pyrolysis of the ammonium salt APFO
21 is more facile by orders of magnitude and proceeds by
22 first-order kinetics at essentially the same rates in
23 both quartz and borosilicate ampoules."

24 Did I read that correctly?

25 A. Yes, that's what it says.

Page 68

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Q. So according to Krusic and Roe -- which
3 you're relying on, right?

4 A. Yes, but there's no data presented for
5 APFO.

6 Q. According to Krusic and Roe, APFO
7 decomposed at essentially the same rates not just in
8 glass, right, but in quartz as well, right?

9 A. That's what they say, but --

10 Q. Can you --

11 A. -- they provide no data to support that.

12 Q. Can you cite any literature that rejects
13 this statement by Krusic and Roe in the 2005 report,
14 which is Exhibit 7, and cited in your rebuttal report?

15 A. No.

16 Q. Can you cite any test data that you've
17 done or that you have access to or that you're aware
18 of that rejects this statement by Krusic and Roe at
19 Exhibit 7?

20 A. No.

21 Q. Now -- see if I understand it correctly,
22 Dr. Hopke.

23 You do not adopt Krusic's and Roe's
24 findings about APFO decomposition as applied to your
25 opinions in this case about Saint-Gobain's or

Page 69

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 CHEMFAB's processing activities; is that correct?

3 A. That's correct. They're irrelevant.

4 Q. Do you -- strike that.

5 Do you nevertheless adopt Krusic and Roe
6 when it comes to their opinions about PFOA
7 decomposition as applied to Saint-Gobain's processing
8 activities?

9 A. Okay. I use them to show that the
10 material decarboxylates. In order to decarboxylate,
11 it has to lose the ammonia. In order to lose the
12 ammonia, you then formed PFOA from the APFO. It will
13 sublime before it decomposes in an open system, where
14 you have good ventilation to dry the fabric. It will
15 never get to these kinds of temperatures.

16 Q. What did Krusic and Roe conduct their test
17 of APFO on?

18 A. I don't understand.

19 Q. Sure.

20 In this 2005 paper --

21 A. Yeah.

22 Q. -- what did Krusic and Roe say they found
23 about APFO in quartz?

24 A. They say that it decomposed at 196 C.

25 Q. And what did PFOA -- I'm sorry.

Page 70

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 What did Krusic and Roe conduct their --
3 conduct their test on APFO -- well, strike that.
4 Strike that.

5 Did Krusic and Roe also test PFOA in
6 quartz?

7 A. Yes.

8 Q. Did you find Krusic and Roe's use of
9 quartz for PFOA to be acceptable in terms of forming
10 your opinions in this case about Saint-Gobain's and
11 CHEMFAB's processing activities?

12 MS. JOSELSON: Objection.

13 You can answer.

14 A. Again, the big issue was whether, in the
15 glass study in 2003, there were -- the glass itself
16 was influencing the decomposition. So they moved to
17 the quartz in order to have a chemically less reactive
18 material in which their system was contained.

19 Again, in both cases, they do show that
20 the system at high enough temperatures will
21 decarboxylate. The PFOA will decarboxylate, but the
22 point is that if APFO is decarboxylating, it has to
23 lose the ammonium before that can occur.

24 Q. So let me see if I understand it,

25 Dr. Hopke.

Page 71

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Do you find the testing of PFOA in quartz
3 to be reliable for your opinions in this case?

4 MS. JOSELSON: Objection. Asked and
5 answered.

6 You can answer it again.

7 A. In that it does show that there is
8 decomposition, decarboxylation of the PFOA, as one
9 would expect at high enough temperatures.

10 Q. And do you find the testing of APFO in
11 quartz to be reliable?

12 A. I don't know, because they provide no
13 data.

14 Q. But as you sit here today, you don't have
15 any criticism of the use of quartz to test whether or
16 not PFOA or APFO decomposes --

17 A. No.

18 Q. -- is that fair?

19 A. That's fair. But it's a closed system, so
20 it's a different problem.

21 Q. At page 2 of your rebuttal report,
22 Dr. Hopke, which is Exhibit 4, at the top you say,
23 "Decarboxylation will only occur in PFOA. It will not
24 occur in crystalline APFO, where the ammonium ion is
25 ionically bonded to the carboxy acid ion."

Page 72

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Did I read that right?

3 A. Yes.

4 Q. Have you seen any paper in the literature
5 that supports that opinion?

6 A. Not directly. I mean, again, this is a
7 very standard chemical understanding of the system.
8 In order to have a leaving group, okay, a reaction
9 like this involves temperature increasing the
10 vibrational frequency of the bond that's going to
11 break.

12 If that carboxyl group is still attached
13 to the ammonium ion, or it's bound within a crystal,
14 then that will dampen that vibration to the point
15 where there's no way that that's going to have enough
16 energetics for that bond to break.

17 Q. Can you cite any paper in the literature
18 that says decarboxylation will only occur in PFOA and
19 not in crystalline APFO?

20 A. No.

21 Q. When did you first form --

22 MS. JOSELSON: Did you finish?

23 A. But, I mean, people wouldn't be looking
24 for that because they know it couldn't happen.

25 Q. As you sit here today, can you identify

Page 73

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING
2 anyone other than yourself who believes that only PFOA
3 decarboxylation will occur and that it will not occur
4 in crystalline APFO?

5 MS. JOSELSON: Objection.

6 A. I don't know of anybody, but I haven't
7 looked. Again, there is no indication of Krusic
8 trying to provide a mechanism.

9 Q. And if you flip back to Krusic 2004,
10 Dr. Hopke --

11 A. '3 or '5? There is no '4.

12 MS. JOSELSON: I think it's Exhibit 6.

13 Q. It's Krusic 2004, which is Exhibit 6.

14 A. '3. Oh, no, you're right. Sorry.

15 Q. That's okay.

16 In fact, Krusic and Roe, don't they state
17 that decarboxylation occurs in crystalline APFO?

18 A. Well, they say that they put a crystalline
19 APFO in and they get decarboxylation. They don't
20 really get into the details of the mechanism.

21 Q. Do they get into the details of the
22 mechanism for PFOA?

23 A. No.

24 Q. Now, Dr. Hopke, under the "Experimental"
25 section, which is at page 3801, do you see --

Page 74

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. Wrong one.

3 Q. It's still Exhibit 6. So you take your
4 time and tell me when you're with me.

5 A. All right.

6 Q. So Exhibit 6 at page 3801 --

7 A. Yes.

8 Q. -- in the "Experimental" section.

9 Do you see that?

10 A. Uh-huh.

11 Q. Again, this is Krusic and Roe from 2004.

12 Do you see the clause that says, "The APFO
13 was further recrystallized to yield the final sample"?

14 Do you see that?

15 A. Yes.

16 Q. And then do you see the actual conclusion
17 of this paper, the first sentence on page 3803, "The
18 experiments described above demonstrate that ammonium
19 perfluorooctanoate decomposes rapidly at the elevated
20 temperatures which are most often used to melt,
21 process, or sinter fluoropolymers."

22 Did I read that correctly?

23 A. Yes, you did.

24 Q. And do you agree or disagree with that
25 conclusion?

Page 75

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. Yes, I agree.

3 Q. And do you agree that the temperature
4 range that they're referring to is stated in the first
5 sentence of the article, 196 degrees to 234 degrees
6 Celsius?

7 A. Yes.

8 Q. So when you say that -- strike that.

9 So you do believe that APFO can
10 decarboxylize, correct?

11 A. I believe it can dissociate and
12 decarboxylize -- decarboxylate.

13 Q. Did you ever read the Lines and Sutcliffe
14 article from 1983?

15 A. I'm not sure.

16 Q. Just take a look at it. I'll have a few
17 questions about it.

18 THE WITNESS: I'm going to cheat and get
19 my reading glasses.

20 MR. FLEMING: Why don't we go off the
21 record so Dr. Hopke can get whatever he needs.

22 MS. JOSELSON: His reading glasses.

23 THE VIDEOGRAPHER: The time is 10:52.
24 We're off the record.

25 (The proceeding recessed at 10:51 a.m.)

Page 76

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 (The proceeding reconvened at 11:05 a.m.;
3 appearances as before noted.)

4 (The following exhibits were marked for
5 identification: Hopke EXH 8 and 9.)

6 THE VIDEOGRAPHER: The time is 11:05.

7 We're back on the record. This marks the beginning of
8 Disk Number 2.

9 PHILIP K. HOPKE, PhD, resumes;

10 CONTINUING EXAMINATION BY MR. FLEMING:

11 Q. We're back from the break. Are you ready
12 to go, Dr. Hopke?

13 A. Yes.

14 Q. Okay. So I believe I gave you Exhibit 8.

15 Did you have an opportunity to review
16 that, Dr. Hopke?

17 A. Quickly, but yeah.

18 Q. Okay. I'll just note for the record what
19 it is again. It's Lines and Sutcliffe, and it's a
20 19 -- actually '84 paper in the "Journal of Fluorine
21 Chemistry," right?

22 A. That's correct.

23 Q. And it has the name "Preparation And
24 Properties of Some Salts of Perfluorooctanoic Acid,"
25 right?

Page 77

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. That's correct.

3 Q. And I noted that you said during the break
4 you had an opportunity to review it quickly. Would
5 you like more time to review that, Dr. Hopke?

6 A. I don't think so at this time. I think I
7 can see what the relevant portions were likely to be.

8 Q. Okay. Well, any time you need more time,
9 just let me know.

10 And I see that you're taking notes,
11 Dr. Hopke. Can you tell me what you're writing on
12 your paper there during the deposition?

13 A. Well, just getting the -- just getting the
14 reference so I can get it later.

15 Q. Can we mark your notes? You can continue
16 to use them, but we'll mark them as an exhibit to the
17 deposition.

18 A. Okay.

19 Q. That will be out of sequence, but we'll
20 mark it as -- why don't we mark Exhibit 9 now, and
21 then we'll mark your notes as Exhibit 10.

22 MS. JOSELSON: What are we -- oh.

23 (The following exhibit was identified for the
24 record: Hopke EXH 9.)

25 Q. So Exhibit 9, which I'll be asking you

Page 78

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING
2 about, is a study in the "Journal of Fluorine
3 Chemistry" by Hercules -- pretty good name -- 2016.
4 I'll hand that to you, Dr. Hopke, but we're going to
5 come to that next.

6 And then we'll mark your notes as Exhibit
7 10. So if you'll put a sticker on your notes, I would
8 appreciate it.

9 (The following exhibit was marked for
10 identification: Hopke EXH 10.)

11 MR. FLEMING: And, Emily, you need a copy
12 of Hercules 2017. That's Exhibit 9. Hercules,
13 Exhibit 9.

14 Q. So back to Exhibit 8.

15 Are you with me, Dr. Hopke?

16 A. Yeah.

17 Q. Okay. Great.

18 So do you agree with me, Dr. Hopke, that
19 Table 2 of Exhibit 8, the Lines and Sutcliffe article,
20 shows decarboxylation occurring in crystalline APFO?

21 A. No. It says "decomposition temperature."
22 We don't know what it's necessarily decomposing into.
23 All this is doing is a thermogravimetric analysis,
24 where you're looking at the weight loss as a function
25 of time and temperature. And so then the question is

Page 79

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 what -- what exactly is moving from the solid phase
3 into the gas phase.

4 Q. Okay. So you agree with me that this
5 article shows a decomposition of APFO, correct?

6 A. It shows that they're calling
7 decomposition the loss of mass from the -- in the TGA.

8 Q. And isn't that what decomposition is?

9 A. It may also be sublimation.

10 Q. And this paper refers to it as
11 decomposition, right?

12 A. They refer to it as decomposition.

13 Q. Okay. Have you reviewed this paper before
14 today?

15 A. Not to my knowledge.

16 Q. Can you cite any paper that takes issue
17 with Lines and Sutcliffe's conclusions about the
18 decomposition of PFOA as set out in Table 2?

19 A. No.

20 MS. JOSELSON: Objection.

21 A. No. Because I hadn't analyzed it before
22 now, so I haven't had any chance to look to see what
23 other people have thought.

24 Q. And if you take a look at Figure 1,
25 Dr. Hopke --

Page 80

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. Uh-huh.

3 Q. -- does it show a 100 percent loss of the
4 APFO at 210 degrees Celsius?

5 A. Loss, yes, because there's no residual
6 metal ion to leave a residue, like the other species
7 in their series of studies.

8 Q. And then if you take a look at Exhibit 9,
9 Dr. Hopke --

10 A. Okay.

11 Q. -- which is that Hercules article --

12 A. Yes.

13 Q. -- from 2017.

14 I'll give you an opportunity to review it.
15 I'm just going to ask if you're familiar with this
16 paper, to start.

17 A. No, I am not.

18 Q. Do you think you've reviewed this before
19 your deposition?

20 A. No.

21 Q. So I have some questions about this
22 article in the "Journal of Fluorine Chemistry" by
23 Hercules, 2017, and you should take the opportunity to
24 review it as much as you would like.

25 A. Yes, please.

Page 81

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 MS. JOSELSON: Do you want to go off the
3 record?

4 MR. FLEMING: It's up to you. It doesn't
5 matter to me. We can stay on the record.

6 MS. JOSELSON: I'm going to open the door
7 while he does that, to cool off the air.

8 MR. FLEMING: Sure.

9 A. Okay. And this is a pretty complex paper
10 with a lot of material in the supporting information
11 that I don't have immediate access to.

12 So, I mean, we can -- we can explore it,
13 but I'm not sure how far we can go without having time
14 to really dig into all of the relevant material.

15 Q. And what information is missing that you
16 think you need to dig into this?

17 A. Well, there's the video. There's the
18 thermal -- there's the TGA graphs in the supplemental
19 material.

20 I mean, again, what's the -- what do you
21 see as the relevance of this?

22 Q. I'll ask you some questions.

23 A. Okay. Then let's see where we go --

24 Q. Sure.

25 A. -- but I'm going to have to be very

Page 82

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING
2 cautious about how far I can go without, you know,
3 much of a -- I mean this is a much simpler paper than
4 this one is.

5 Q. Well, why don't we see what you think of
6 the questions and we'll -- we'll work through it.

7 But what other information? You said
8 videos and graphs? What were you missing from this
9 paper?

10 A. All the supplemental material.

11 Q. Okay.

12 A. Again, the advantage of modern technology
13 is that you can put much more details. It doesn't go
14 into the print material; it goes into a supplemental
15 file that is downloadable --

16 Q. Uh-huh.

17 A. -- including videos and other kinds of
18 graphical material.

19 So you can put a great deal of additional
20 information that -- that is supportive and still keep
21 the print issue relatively short.

22 Q. I didn't see any of the supplemental
23 materials for any of the other papers that you cited
24 in your report.

25 Have you produced any supplemental

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 materials related to those reports?

3 A. No, they didn't have any supplemental
4 materials.

5 Q. Did you request any of the
6 supplemental materials from the authors for this
7 report?

8 A. No, no, no. Those all come with -- when
9 you publish the paper, you submit both the paper and
10 the supplemental materials.

11 I've had a paper where I had 90-some-odd
12 pages of supplemental materials, enormous numbers of
13 graphs, so people can see all of the details. But the
14 publisher is not going to want to use its page budget
15 for that material.

16 Q. All right. Just on all the other papers
17 that you've relied on, have you reviewed any
18 supplemental materials by the authors for any of them?

19 A. No.

20 Q. Okay.

21 A. No. If there had been supplemental
22 materials, I would have included them in the materials
23 I brought.

24 Q. Did you contact any of those authors to
25 see if they had any supplemental materials?

Page 84

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. No.

3 Q. So the questions I have really relate on
4 this Hercules article at Exhibit 9, and we'll see what
5 you think, Dr. Hopke.

6 But doesn't this article show that
7 decarboxylation occurs in the pentafluoropropionate
8 salts that are listed in the article?

9 A. It seems to.

10 Q. And like magnesium, potassium, calcium,
11 barium?

12 A. Right, at high enough temperatures.

13 Q. All of those are heavier than the ammonium
14 in APFO, aren't they?

15 A. Lithium wouldn't be.

16 Q. Okay. I didn't -- I didn't mention
17 lithium, but let's go through it.

18 Magnesium is heavier than the ammonium in
19 APFO, right?

20 A. Yes.

21 Q. Potassium is heavier than the ammonium in
22 APFO, right?

23 A. Yes, and sodium and calcium.

24 Q. Calcium is heavier than the ammonium in
25 APFO, right?

Page 85

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. Yes.

3 Q. Barium is heavier than the ammonium in
4 APFO, right?

5 A. Uh-huh.

6 Q. You have to answer audibly. Sorry.

7 A. Yes.

8 Q. "Ses-e-um," "See-see-um"?

9 A. "See-zee-um."

10 Q. Cesium is heavier than the ammonium in
11 APFO, right?

12 A. Yes.

13 Q. And I was understanding you to say earlier
14 that APFO can't decarboxylate because the ammonium ion
15 is too heavy.

16 A. Again, if you get up to high enough
17 temperatures, then you can start to dissociate the
18 ionic bond, and now you can start to do -- but these
19 are significantly higher temperatures. We're looking
20 at 50 to -- at least, quick read, look like something
21 like 50 to 100 degrees higher Celsius than -- than
22 what we're talking about for the ammonium.

23 Q. So at Table 1, I see a reference to 196
24 degrees Celsius.

25 Do you see that, Dr. Hopke?

Page 86

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. For the potassium, yeah.

3 And, again, these are also esters, not --
4 we're not -- you know, we're not looking at quite the
5 same chemical moiety as we would be in the
6 perfluorooctanoic acid.

7 Q. But, again, these are all examples of
8 materials that are decarboxylating that are heavier
9 than the ammonium ion --

10 A. Right. But it's got -- it's got --

11 Q. -- in APFO?

12 You have to let me finish.

13 MS. JOSELSON: You have to let him finish.

14 A. Oh, I'm sorry.

15 Q. That's okay.

16 A. Yeah. But it's got an O-O bond in the
17 middle, so it's not -- we're not talking about exactly
18 the same chemistry.

19 And, again, without a lot more detailed
20 understanding of what they're doing here, I really
21 don't really feel comfortable commenting much further.

22 Q. So to form an expert opinion on that
23 paper, you would need to review more of the materials
24 related to it; is that your testimony?

25 A. Absolutely.

Page 87

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Q. And you haven't done that?

3 A. No, because I'm just aware of it today.

4 Q. Did you do any kind of comprehensive or
5 systematic search of the literature on the
6 decarboxylation of other salts that may relate to
7 materials that are heavier than the ammonium in APFO?

8 A. No, I did not.

9 MR. FLEMING: Let's mark another exhibit,
10 Dr. Hopke. It's another scientific article.

11 Are we up to Exhibit 11?

12 MS. JOSELSON: Yep.

13 (The following exhibit was marked for
14 identification: Hopke EXH 11.)

15 MS. JOSELSON: Thank you.

16 MR. FLEMING: You're welcome.

17 Q. So I've just handed you an exhibit,
18 Dr. Hopke, and I'm just going to state what it is for
19 the record. And then, similarly, you can take, you
20 know, all the time that you would like to review it.

21 My first question, after I state what it
22 is, is going to be: "Have you ever seen it before,"
23 just to preview that for you.

24 MR. FLEMING: But for the record,
25 Exhibit 11 is an article called "The Pyrolyses of the

Page 88

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Salts of Perfluoro Carbolics" -- I'm sorry --

3 "Perfluoro Carboxylic Acids," and it's by LaZerte,
4 which is L-a-Z-E-R-T-E, from 1953.

5 Q. And, first, the only question I'll ask
6 until you have an opportunity to look at it,

7 Dr. Hopke: Have you reviewed this article before?

8 A. No, I haven't. It was clearly referred to
9 in the previous article, but -- it said something
10 about studies from the '50s, so this must be it.

11 Q. Have you ever seen any citation or
12 reference to this LaZerte article?

13 A. No, I haven't.

14 Q. Are you aware that it's actually cited in
15 the Krusic and Roe paper from 2004 that you're relying
16 on for your opinions in this case?

17 A. Yeah, I saw it was cited there, but I
18 didn't go back and look.

19 I mean papers that old are not necessarily
20 as robust as more current literature.

21 Q. They can be, right?

22 A. They can be, right.

23 Q. And they may not be, right? You would
24 have to review it to be able to form an opinion about
25 how --

Page 89

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. Right.

3 Q. -- how robust or not it is, right?

4 A. And -- and, again --

5 Q. Is that right, Dr. Hopke?

6 A. Yes.

7 And, again, the fact that the material can
8 decarboxylate is really irrelevant to my opinion,
9 because my opinion is that the material never gets to
10 high enough temperatures to where it would have the
11 potential for decarboxylation. So basically all this
12 discussion is irrelevant.

13 Okay.

14 Q. So, Dr. Hopke, in your rebuttal report at
15 page 2, which is Exhibit 4, you had said that, quote,
16 "Decarboxylation will only occur in PFOA. It will not
17 occur in crystalline APFO where the ammonium ion is
18 ionically bonded to the carboxy acid ion. The
19 presence of the ammonium ion makes the 'leaving group'
20 too heavy to allow the internal atomic motion needed
21 to proceed to the breaking of the carbon-carbon bond."

22 A. Uh-huh.

23 Q. Do you still believe, Dr. Hopke, as you
24 sit here today, that decarboxylation will not occur in
25 APFO because the ammonium ion makes the leaving group

Page 90

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 too heavy?

3 A. Yes.

4 Q. And we've -- so let's take a look at this
5 paper that is Exhibit 11 --

6 A. Uh-huh.

7 Q. -- on that subject.

8 Does Table 2 show that ammonium
9 perfluorobutanoate salts can decarboxylate?

10 A. That they will decarboxylate.

11 Q. And are the salts listed in LaZerte -- in
12 this LaZerte paper heavier than the ammonium ion --
13 I'm sorry. Strike that.

14 Are the salts listed in this LaZerte paper
15 heavier than the ammonium in APFO?

16 A. Yes, except for lithium. But what you
17 have here is a transfer of a fluorine to the metal,
18 and that's why you get the residual metal fluoride
19 as -- as the mechanism.

20 Again, they're not looking at the decar --
21 they're -- these are both synthesis papers, so they're
22 not looking at the detailed mechanism. They're
23 primarily looking at how to maximize the yield of a
24 product.

25 Q. And do they conduct actual tests in this

Page 91

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 paper, or did they model it?

3 A. No, these are laboratory experiments.

4 Q. And do they show that ammonium
5 perfluorobutanoate thoroughly decomposes to
6 form 1H-Perfluoropropane, ammonia, and CO₂?

7 A. That's what they report.

8 Q. Do you have any basis to dispute that
9 that's what occurs?

10 A. No.

11 Q. Dr. Hopke, would you agree that a rate
12 determining step is a chemical reaction or phase
13 transition that is the slowest step in a series of
14 reactions which determines the overall rate of
15 reaction?

16 MS. JOSELSON: Objection.

17 A. Yes, within an overall mechanism.

18 Q. So if you have two reactions in a series,
19 the slower one is the rate at which the overall
20 reaction will occur; is that fair?

21 A. Yes, depending on what the relative values
22 are. I mean they can be very close and not -- again,
23 it depends on whether the second step is a rapid one
24 or a...

25 Q. So, as an example, if one reaction occurs

Page 92

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING
2 in an hour, one hour, and the next occurs in one
3 second, the overall rate of reaction would be one
4 hour; is that correct?

5 A. Roughly.

6 Q. It isn't averaged or affected by the
7 faster rate, right?

8 A. No, but the overall rate would still take
9 that second.

10 Q. So it would be an hour plus a second.

11 A. (The witness indicated nonverbally.)

12 Q. Is that right?

13 A. Yes.

14 Q. Dr. Hopke, am I correct that you came up
15 with the idea of sublimation after you made your
16 conclusions about emissions of PFOA in your class
17 certification report and declaration?

18 MS. JOSELSON: Objection.

19 A. No. That was part of the overall thought
20 and process in the beginning.

21 Q. Let's take a look at your prior
22 transcript, together with a document called
23 the "Acknowledgment of Deponent."

24 A. Uh-huh.

25 (The following exhibits were marked for

Page 93

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 identification: Hopke EXH 12 and 13.)

3 MR. FLEMING: So I've marked your prior
4 transcript as Exhibit 12. This is the transcript of
5 your deposition in this case dated April 3, 2018.

6 And then the Acknowledgment of Deponent --
7 which is you, Dr. Hopke, of course -- dated May 9,
8 2018, and that's Exhibit 13.

9 MS. JOSELSON: Thanks.

10 MR. FLEMING: You're welcome.

11 Q. Dr. Hopke, as I grab my copy, I was going
12 to direct you to -- feel free to look at all of it
13 that you'd like, but my questions will be related to
14 the testimony at pages 230 and 232.

15 A. Well...

16 Q. So, Dr. Hopke, on Exhibit -- the
17 acknowledgment there -- I'm sorry. Which exhibit is
18 the acknowledgment? Is it a separate document?

19 A. This is 13.

20 Q. Yeah. If you could explain to me what
21 your understanding is of Exhibit 13.

22 A. That's where I attempted to correct things
23 where -- you know, there were some questions that I
24 was not as clear as I needed to be in the original
25 deposition.

Page 94

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Q. So you tried to -- if I'm understanding
3 you right, you reviewed your transcript previously --

4 A. Yes.

5 Q. -- is that fair?

6 A. Yes.

7 Q. And did you review it?

8 A. Yes.

9 Q. And you tried to identify things that you
10 believe were not as clear as you would have liked; is
11 that correct?

12 A. That's correct.

13 Q. Were any of the areas where you were not
14 as clear as you would have liked in your prior
15 testimony also errors in your prior testimony?

16 A. I don't think they were errors. It's just
17 more a matter of -- of making things as clear and --
18 and precise as possible.

19 And, again, this is my first time ever
20 doing this, and, you know, I'm not -- I'm not used to
21 being under this kind of interaction.

22 Q. Okay. So, Dr. Hopke, at your deposition
23 at page 230 --

24 A. Uh-huh.

25 Q. -- at line 2 --

Page 95

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. Uh-huh.

3 Q. -- I had asked you, quote: "Dr. Hopke,
4 earlier in the deposition you mentioned the concept of
5 sublimation, right?

6 "Do you recall that?"

7 And you answered: "Yes."

8 And then I asked: "That's not mentioned
9 in either your merits or your class certification
10 report, correct?"

11 And you said: "Correct. I found that
12 information later."

13 So as you sit here today, is it still the
14 case, is it still true, that you believe that you
15 found your information on sublimation after you
16 submitted your class certification report in this case
17 and after you submitted your merits report in this
18 case?

19 A. Okay. What I found afterwards was the
20 details in the Barton and Zhu papers, which I had not
21 included in the original certification report.

22 So my concept was sublimation. I avoided
23 using the word because I was not sure that it would be
24 commonly understood what I meant. I tried to describe
25 it -- describe what I did in more conceptual terms.

Page 96

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Now we're trying to provide greater
3 clarity and -- and explication by getting into a much
4 more detailed and -- and a description of what I
5 believe happens.

6 Q. When did you first read the paper that
7 gave you this idea for sublimation?

8 MS. JOSELSON: Objection to form.

9 You can answer.

10 A. There wasn't a paper that did that. It
11 was my conceptualization of how this process was
12 working.

13 Q. Do you see at page 231, Dr. Hopke, I asked
14 you at your prior deposition --

15 A. Uh-huh.

16 Q. -- "When was it that you first read this
17 paper that you seem to remember gave you this idea?"

18 And you answered: "About a week ago. I
19 did another follow-up search on this."

20 Is that correct or incorrect?

21 MS. JOSELSON: Objection.

22 A. Again, what I found later was the Barton
23 2009 and the Zhu paper, which supported the original
24 conceptual framework and gave it more specificity than
25 I had in the prior. And, again, I was not as clear as

Page 97

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 I should have been here.

3 Q. And, Dr. Hopke, you didn't make any
4 corrections in your acknowledgment relating --
5 relating to any of the testimony that we just
6 discussed, right?

7 A. No. No, I did not.

8 Q. So, Dr. Hopke, if we could go back to
9 page 2 of your rebuttal report.

10 In the middle there -- this is Exhibit 4.
11 Are you with me? --

12 A. Yes.

13 Q. -- there's an equation, right?

14 A. Yes.

15 Q. What is this equation?

16 A. It's an equation that provides the vapor
17 pressure as a function of temperature, taken from the
18 Barton 2009 paper.

19 Q. And is this the vapor pressure for APFO or
20 PFOA?

21 A. The vapor pressure of -- I'm not entirely
22 certain. Let me look at the Barton paper so we don't
23 make errors here.

24 It's APFO.

25 Q. And is the formula for the vapor pressure

Page 98

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 of APFO important to your opinions in this case?

3 A. Yes, because what they are really
4 measuring in the Barton paper is, again, a way of
5 estimating -- okay. So they're making vapor pressure
6 measurements. So they're not actually measuring APFO;
7 they're measuring the vapor pressure, the change in
8 vapor pressure.

9 Q. So maybe walk me through just some of
10 these codes here.

11 You see the "LN" and, in parentheses,
12 "(P/PA)" on the left side of the equation?

13 A. Yeah. That's the natural log of the
14 measured pressure to atmospheric pressure.

15 Q. And then on the fraction on the other side
16 of the equation, the denominator has the letter "T."

17 A. That's temperature.

18 Q. "T."

19 And did you actually run calculations
20 using this formula yourself?

21 A. Yes. That's how I got the 143 pascal at
22 150 C.

23 Am I right? I may have --

24 Q. And that's my question --

25 MS. JOSELSON: Did you want to look?

Page 99

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 THE WITNESS: No, that's okay.

3 Q. And that's my question, Dr. Hopke.

4 Can you explain to us how you get that
5 figure that you just discussed of 100 degrees Celsius
6 to be 4.5 pascals, based on this equation, for APFO?

7 MS. JOSELSON: Objection to form.

8 A. Huh?

9 Q. How do you get -- did I read it right?
10 How do you get 4.5 pascals based on this equation at
11 100 degrees Celsius? Can you calculate it?

12 A. No. That was 100. It's estimated to be
13 4.5, and I think I took that from the Barton paper.

14 Q. So let me see if I get it again.

15 At 100 degrees Celsius under this formula,
16 I'm understanding you to say that you get 4.5 pascals;
17 is that correct?

18 A. That's my recollection.

19 Q. And that's what you wrote in your report,
20 right?

21 A. Yes.

22 Q. So we could not get that figure based on
23 this formula.

24 A. Okay.

25 Q. MS. JOSELSON: I'm going to object to the

Page 100

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 form.

3 Q. Can you walk us through how you got it.

4 Can you calculate it.

5 A. I would have to dig out my notes and
6 spreadsheet to -- to be able to do that.

7 Q. Could you do it with a calculator?

8 A. I don't know. I mean I would be more
9 comfortable getting back to the spreadsheet that I
10 used to develop it.

11 Q. Have you produced the spreadsheet that you
12 used to develop this to us?

13 A. No, I didn't.

14 Q. Is it a spreadsheet that you relied on to
15 form your opinions in this case?

16 A. It was just to do the calculation.

17 Calculations.

18 MR. FLEMING: Did we mark Barton 2009?

19 MS. JOSELSON: I don't think so.

20 THE WITNESS: It's part of the -- Exhibit
21 5.

22 MR. FLEMING: Okay. So let me grab my
23 copy, and we'll figure out how we can mark it as an
24 exhibit. All right.

25 THE WITNESS: It would be 5C.

Page 101

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 MR. FLEMING: Maybe.

3 MS. JOSELSON: It's noon. What are your
4 thoughts about a break?

5 MR. FLEMING: I'm going try to continue
6 the question that I've got here. But I would say,
7 Emily, maybe 15 minutes, if that's okay for you.

8 MS. JOSELSON: Okay.

9 MR. FLEMING: If, Dr. Hopke, or -- you
10 know, or Emily, you want to break for lunch sooner
11 than that --

12 THE WITNESS: No, that's fine.

13 MR. FLEMING: -- that's certainly fine,
14 but I would like to complete this question that I'm
15 trying to get out.

16 THE WITNESS: Sure. Let's get through
17 that.

18 MS. JOSELSON: Off the record or whatever,
19 these questions are referring to his report at page 2?
20 Is that what you said?

21 THE WITNESS: Yeah, here (indicating).

22 MS. JOSELSON: Okay. And here
23 (indicating), right?

24 THE WITNESS: And there (indicating).

25 MS. JOSELSON: Yep. And here

Page 102

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 (indicating), right?

3 Dr. Hopke?

4 THE WITNESS: Yeah. This one is the one
5 where it's 4.5.

6 MS. JOSELSON: All right.

7 Q. So you have Barton 2009?

8 A. Yeah.

9 MR. FLEMING: Are we on the record or off
10 the record?

11 THE VIDEOGRAPHER: You're on.

12 MR. FLEMING: We're on. Okay.

13 A. So it's Equation 6.

14 Q. Okay. So, Dr. Hopke, coming back to this
15 now, why don't we mark your copy of that as -- is it
16 5C now?

17 A. Exhibit 5C would be the next one.

18 Q. That would be logical.

19 So this was another document that was in
20 that composite collection that you brought with you to
21 the deposition, right?

22 A. Yes.

23 Q. And we're going to break out Barton 2009
24 as Exhibit 5C that you will have in front of you.

25 MR. FLEMING: I'll get you a copy.

Page 103

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 MS. JOSELSON: Thank you.

3 MR. FLEMING: You're welcome.

4 5C.

5 (The following exhibit was marked for
6 identification: Hopke EXH 5C.)

7 Q. Okay, Dr. Hopke. So you see at page 754
8 of Barton 2009 --

9 A. Yeah.

10 Q. -- you cite an Equation 7, but there is no
11 Equation 7, right?

12 A. Well, it must be a typo, because it's
13 Equation 6, yep.

14 Q. Okay. But Equation 6 is not the same as
15 your equation in your report, right? For APFO, right?

16 A. Okay.

17 Q. Am I right, Dr. Hopke?

18 A. Yes, that's correct.

19 Q. And, in fact, the numerator for the actual
20 formula in Barton 2009 that you're relying on is minus
21 10936 over T, right? And you have 10695 over T,
22 right?

23 A. That's correct.

24 Q. And then the added constant there, the
25 correct one in Barton 2009 is 30.814, right?

Page 104

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. Yes.

3 Q. Not 37.292, right?

4 A. Correct.

5 Q. If you actually apply this formula, do you
6 know how big of a difference it yields from the
7 formula that you would get for APFO that's incorrectly
8 cited in your report?

9 MS. JOSELSON: Objection to the form.

10 A. Not until I do the calculation.

11 Q. Would it surprise you if it's a factor of
12 1,000?

13 A. Yes.

14 Q. That's a pretty big difference, right?

15 A. I don't believe you calculated it
16 correctly, then. Did you use the temperature in
17 degrees Celsius or in degrees Kelvin?

18 Q. Celsius.

19 A. Kelvin. Thermodynamic equations are done
20 in Kelvin. So that's divided by 373, not -- not 100.

21 Q. In your paper, you did 100 degrees
22 Celsius, right?

23 A. Right. But when you plug it into the
24 equation, people who know thermodynamics know that you
25 report temperatures and calculate in Kelvin.

Page 105

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Q. Okay. So you, as you sit here today,
3 won't agree or necessarily agree or don't necessarily
4 agree that the difference would be a factor of 1,000,
5 right? Is that fair?

6 A. I would -- I cannot imagine it could be a
7 factor of 1,000.

8 Q. Okay. As you sit here today, can you tell
9 me how big of a difference it would be if you applied
10 the correct formula that Barton 2009 cites for APFO as
11 opposed to the incorrect one that you cited in your
12 report submitted in this case?

13 MS. JOSELSON: Object to the form.

14 A. Not -- not quantitatively. It's not going
15 to be as -- anywhere near that big.

16 Q. Okay. So not near as big as a
17 thousandfold difference, but can you tell me in any
18 way how big of a difference it would be?

19 A. Less than a factor of 10 would be my
20 expectation. And less than that, likely.

21 Q. And I -- I take it, since you cited this
22 formula, that you haven't considered whether or not a
23 factor of 10 would be important to your opinions in
24 this case, that differential, before this deposition?

25 A. Again, it's not going to make -- okay.

Page 106

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 This, I think -- I think what happened is I got this
3 from the thesis, and it got changed when she put it
4 into the -- into the paper.

5 Q. And you would rely on the one that's in
6 the paper, right?

7 A. The paper would be the more reliable one,
8 and I -- I --

9 Q. Is that the peer --

10 MS. JOSELSON: Let him finish.

11 MR. FLEMING: Sorry.

12 Q. Go ahead. Sorry.

13 A. And I -- I should have used the paper one.

14 Q. Okay. Because that's peer-reviewed,
15 right?

16 A. Right.

17 Q. But you haven't calculated, again -- and
18 then we can end this -- to make sure I have it right,
19 you haven't calculated what the difference would be if
20 you actually ran the correct formula for the vapor
21 pressure of APFO or its effect on your opinions?

22 MS. JOSELSON: Object to the form.

23 Q. Is that correct?

24 A. I have not done that.

25 MR. FLEMING: Okay. Thank you for letting

Page 107

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING
2 me finish that line of questions. I'm fine taking
3 lunch now, if that's what everyone would like --

4 THE WITNESS: Yeah, that would seem like a
5 good idea.

6 MR. FLEMING: -- instead of continuing for
7 a bit. I don't think I would, you know, finish before
8 lunch, so it's matter of, you know, being able to get
9 out of here, you know, before then and take lunch
10 later. So, basically, if everyone wants to eat lunch
11 now, now is a good time.

12 THE WITNESS: Okay. Do you have a feeling
13 for how much more?

14 MS. JOSELSON: What time would you like to
15 come back?

16 THE VIDEOGRAPHER: The time is 12:01.
17 We're off the record.

18 (The proceeding recessed at 12:01 p.m.)

19 (The proceeding reconvened at 1:04 p.m.;
20 appearances as before noted.)

21 THE VIDEOGRAPHER: The time is 1:05.
22 We're back on the record.

23 MR. FLEMING: So we're back on the record
24 after our lunch break. It's about 1 o'clock. I guess
25 we were off for about an hour.

Page 108

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 PHILIP K. HOPKE, PhD, resumes;

3 CONTINUING EXAMINATION BY MR. FLEMING:

4 Q. But, Dr. Hopke, I understand from what
5 your attorney has told me during the break that you
6 may have some further comment that you would like to
7 make, based on whatever you were doing at lunch.

8 A. Yeah. We were able to get some help with
9 calculating exponential functions, which my calculator
10 on the phone won't do.

11 And so we discovered that, in fact, the
12 vapor pressures that are reported, 4.5 pascals for 100
13 degrees C and 143 for 150 C were, in fact, correct.
14 The typos are in the equation, which should, in fact,
15 correspond to Equation 6.

16 So on that line before the equation, it
17 should actually say, "Based on Equation 6 in Barton
18 2009."

19 The numerator of the first term on the
20 right side of the equation should be 10936 and the
21 additional term should be 30.814, as per Equation 6 in
22 Barton. And then you'll get the 143 and the 45 when
23 you calculate it using degrees Kelvin.

24 And you'll note in the Barton paper in the
25 Figure 2, that the axis -- the x-axis is labeled as

Page 109

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Kelvin.

3 Q. And did you calculate even in Kelvin that
4 the order of magnitude, in fact, was over 1,000 with
5 the --

6 A. It was more -- it went from -- yeah, it
7 went from 4.5 to 5600.

8 Q. And that 150 degrees Celsius or 423.15
9 Kelvin, it went from 144 to 16,000 -- I'm sorry --
10 165,591.

11 Does that sound right to you?

12 A. Right. But that's -- if I -- if I had
13 plugged -- if I had actually plugged that into the
14 spreadsheet, I would have recognized my mistake
15 instantly.

16 Q. And I think at your prior deposition,
17 there were occasions in which you referred to "we,"
18 and you jokingly said "the imperial 'we,'" meaning
19 you.

20 A. Yes.

21 Q. Now when you're saying "we," who do you
22 mean?

23 A. No, it's me.

24 Q. What's you?

25 A. It's all me.

Page 110

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Q. Okay. So I take it, though, you -- on the
3 phone, you were talking to somebody.

4 A. Yeah. I was talking to Gary Davis.

5 MS. JOSELSON: Huh-uh.

6 Q. And --

7 THE WITNESS: Huh?

8 Q. -- Gary Davis --

9 MS. JOSELSON: Kathy -- Kathy Dare.

10 THE WITNESS: Well, but Gary was the one
11 that actually did the calculation. The second call --
12 we had a double.

13 MS. JOSELSON: Today you were talking --

14 MR. FLEMING: Let him answer.

15 MS. JOSELSON: -- to Kathy Dare.

16 MR. FLEMING: Let him answer, Emily.

17 A. I talked with Kathy, and when the call
18 back, it came back from both Kathy and Gary.

19 Q. Okay. And did you say Gary Davis did the
20 calculation?

21 A. Yeah.

22 Q. And he's the plaintiffs' attorney in this
23 case, right?

24 A. Right. But you just plug it into Excel.

25 Q. And was it Gary Davis who typed in this

Page 111

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 incorrect formula into your report?

3 A. No.

4 Q. Who typed that incorrectly into your
5 report?

6 A. I must have done it. I don't quite know
7 how. Because I clearly had the right -- right formula
8 in when I was doing the calculation, so I'm not sure
9 how it happened.

10 Q. So just to make sure I have it right,
11 Dr. Hopke, in your report, when you had the equation
12 negative 10695 over T, that should be negative 10936
13 over T; is that correct?

14 A. That's correct.

15 Q. And when you have it in your report --
16 your rebuttal report again, of course, Exhibit 4 --
17 37.292, that's incorrect, right?

18 A. That's incorrect.

19 Q. It should be, did you say, 30.814?

20 A. That's correct.

21 Q. Dr. Hopke, in your rebuttal report at
22 page 3, there's a sentence -- you tell me when you're
23 there.

24 Okay. There's a sentence at number 3, the
25 last -- second-to-last sentence of that paragraph,

Page 112

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 begins "In this spreadsheet..."

3 A. Uh-huh.

4 Q. So it says, quote, "In this spreadsheet,
5 the Algoflon D3312 dispersion did not identify the
6 surfactant contained as APFO, but we know from other
7 documents that it was."

8 It continues, "I did not use the
9 spreadsheet I was questioned about in my deposition to
10 calculate the omissions in my report, Exhibit 20,"
11 close quote.

12 A. Right.

13 Q. And I would like to ask you about that.

14 A. Sure.

15 Q. So first, Dr. Hopke, when you say "we know
16 from other documents that it was," who is the "we"
17 there?

18 A. This is the collective team that has
19 accumulated material for this.

20 Q. Who was on the team?

21 A. Mr. Davis, Ms. Joselson, Gary Yoder,
22 etcetera, etcetera.

23 So I'm not sure who precisely has, you
24 know, arranged to get this material from Saint-Gobain,
25 but, you know, I -- I'm obviously not the one who

Page 113

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING
2 collected the original material, but -- so, in that
3 case, it really is part of the overall team.

4 Q. And what other documents is the team
5 referring to in the sentence here that we just read?

6 A. Okay.

7 MS. JOSELSON: Object to the form.

8 But you can answer.

9 A. Okay. Two things: One, if you look at
10 the "Components" tab of Exhibit 20, which I brought
11 along --

12 Q. Thank you, sir.

13 Was that within that composite Exhibit 5,
14 what you have in your hand there?

15 A. Yes. Yep.

16 MR. FLEMING: Okay. So why don't we, if I
17 may -- and I appreciate you giving it to me or
18 identifying it for me. Can we make that 5D, I think
19 we're up to.

20 (The following exhibit was marked for
21 identification: Hopke EXH 5D.)

22 Q. So you have a copy already, or is this
23 your only copy, this 5D?

24 A. That's my only copy.

25 Q. Okay. Well, I certainly want you to have

Page 114

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 the ability to have that in front of you. I think I
3 may have a copy, so let me see if I can match it up.

4 A. The key is having the right tab. And it's
5 a very wide spreadsheet, so it's one specific portion
6 of it.

7 Q. Okay. So, Dr. Hopke, I'm going to hand
8 you what was marked as Exhibit 20 at your prior
9 deposition. Okay?

10 A. Uh-huh.

11 Q. And we're going to mark that as Exhibit 14
12 as well to this deposition. So I'll put a sticker on
13 there.

14 A. Okay.

15 Q. So it's got two exhibit numbers.

16 (The following exhibit was marked for
17 identification: Hopke EXH 14.)

18 MR. FLEMING: All right. And, Emily,
19 here's a copy of the document.

20 MS. JOSELSON: Thank you.

21 Q. So the spreadsheet that was included in
22 Exhibit 20 last time, right, did not include the page
23 that you're identifying now --

24 A. Yes, I did.

25 Q. -- as Exhibit 5D?

Page 115

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. Absolutely, it does. There are multiple
3 tabs, as you can see at the bottom.

4 Q. Okay. Sorry. I don't mean to interrupt
5 you. But I think I understand what you're saying, but
6 let me see if I can ask the question better --

7 A. Okay.

8 Q. -- and see if -- see if I do.

9 So the physical hard copy, Exhibit 20,
10 that we used at your prior deposition did not include
11 this page, which is 5D, that you've brought with you
12 today, right?

13 A. That's correct.

14 Q. But if I'm understanding you correctly,
15 it's your testimony that this spreadsheet, when it's
16 viewed on a computer, has other tabs?

17 A. Right.

18 Q. And by accessing at least one of those
19 other tabs, you can generate this 5D.

20 Do I have that right?

21 A. That's correct.

22 Q. Okay.

23 A. If you look at the bottom there, you'll
24 see the other tabs marked out.

25 Q. Okay. So when you say that you did not

Page 116

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING
2 use this spreadsheet that is Exhibit 20, did you
3 consider any of the information that was in Exhibit 20
4 in forming your opinions in this case?

5 A. Not for the rebuttal report.

6 Q. Did you consider -- did you consider --

7 A. Again, we went over this in the
8 deposition, and you -- we recognized that that
9 spreadsheet, which was for -- excuse me -- the
10 Merrimack -- the Exhibit 20 spreadsheet, which was for
11 the Merrimack potential emissions from all 32
12 potential lines really could not include any and could
13 not be directly applied to Bennington, where there
14 could be only 13 lines.

15 Q. And do you still agree that that is the
16 case; it could not be applied to the 13 lines?

17 A. Not for the total. One could look at any
18 of the subtotals that were likely there.

19 However, we had Exhibit 19, which
20 represented the emissions from the -- again, a
21 Saint-Gobain-generated spreadsheet from 2001 that
22 looked at the Bennington plant and listed out
23 surfactants. And that's -- that's the spreadsheet we
24 used to get the total of the 6,952 pounds of
25 potential -- of emissions.

Page 117

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Q. So let me see if I understand.

3 I'll ask you, Dr. Hopke, did you utilize
4 the information that is contained in Hopke Exhibit 20
5 in the hard copy, the three pages double-sided, in
6 forming your opinions in your rebuttal report?

7 MS. JOSELSON: Object to the form.

8 A. No.

9 Q. Did you utilize -- the three pages that
10 are in Exhibit 20, did you consider them in any way,
11 in forming the opinions in your class certification
12 report in this case?

13 A. I don't think so. I think that came
14 later. It certainly was something that we had looked
15 at with regard to the deposition, but I don't think we
16 looked at it for the certification report.

17 Q. Okay. So if I'm understanding you right,
18 you think you may have reviewed Exhibit 20 in advance
19 of the deposition, but after you put it in your
20 report; is that correct?

21 MS. JOSELSON: Object to the form.

22 A. I think so.

23 Q. Okay. And when you refer to "we" there,
24 who were you referring to?

25 A. Me. I'm sorry. I keep doing that.

Page 118

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Q. That's okay. I'll just try to get clarity
3 from you.

4 A. I understand.

5 Q. So then on Exhibit 5D, like Doug, to your
6 current deposition, there -- and you've handed me a
7 copy of it -- can you just explain to us what you're
8 relying on this for.

9 A. Right. Okay. Again, it's listing out the
10 ingredients in the surfactant mixtures.

11 And if you come over to the column that is
12 listed as "Algo D3312X," the only component that they
13 list as being in that material is ammonium
14 perfluorooctanoate.

15 Q. And can you explain to us if there's any
16 quantification of how much APFO is in there?

17 A. That spreadsheet says there's .330
18 percent.

19 Q. .330 percent, correct?

20 A. That's correct.

21 Q. Do you know the other constituents of it?

22 A. No.

23 Q. Do you have any information on how it was
24 utilized, what processes?

25 A. Well, again, this was hypothetical for --

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 for Merrimack. So, no, I'm not certain of that.

3 The other thing we know about 3312 is the
4 deposition of Peter Knapp, who also said that 3312
5 contained APFO.

6 Q. Did you review anyone else's -- well,
7 strike that.

8 Did you review Peter Knapp's deposition --

9 A. Yes, I did.

10 Q. -- transcript?

11 A. Yes.

12 Q. When did you review that?

13 A. I first reviewed it last fall, I reviewed
14 it again prior to the deposition, and then I reviewed
15 it again a couple of weeks ago.

16 Q. Did you review any other depositions in
17 this case?

18 A. Not for the rebuttal report.

19 Q. So let me ask you, if I could -- if this
20 makes sense to you -- since your last deposition, it
21 sounds like you re-reviewed the Peter Knapp
22 deposition; is that correct?

23 A. That's correct.

24 Q. Did you review any other transcripts since
25 your last deposition?

Page 120

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. No, I have not.

3 Q. Okay. And do you have any information on
4 how this Algoflon -- strike that.

5 Do you have any information on whether or
6 not Algoflon 3312 -- sorry. I'll hand it to you.

7 A. Yeah. 3312X, yeah.

8 Q. So let me ask it again. I'm sorry,
9 Dr. Hopke.

10 A. Sure.

11 Q. Do you have any information on whether
12 Algoflon D3312X was used in Bennington or
13 North Bennington?

14 A. Right. And that comes from the
15 Exhibit 19, which lists the materials that were used,
16 and that includes Algoflon D3312.

17 (The following exhibit was marked at a previous
18 deposition: Hopke EXH 19.)

19 Q. And am I right, Dr. Hopke, that the
20 Exhibit 19 from your prior deposition you're referring
21 to is called "Actual Raw Material Use, Saint-Gobain,
22 Merrimack, New Hampshire"?

23 A. That's --

24 Q. Is that correct?

25 A. That's correct. Although the sheet I have

Page 121

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING
2 says "Table 7, Actual Raw Material Used, Saint-Gobain,
3 Bennington."

4 Q. Okay. I did not see that. I see that
5 now. Thank you, Dr. Hopke.

6 A. So to the best of my knowledge, this is --
7 this is Saint-Gobain's understanding of the materials
8 they were using.

9 Q. And what do you base that on, that this
10 is --

11 A. This came from Saint-Gobain, so...

12 Q. It came from Saint-Gobain, what? Table 7?

13 A. Yeah.

14 Q. And are you basing your view that this was
15 used in Bennington, Vermont, on anything other than
16 this document?

17 A. No. Well, yes. I mean, again, we have --
18 Mr. Knapp's deposition said that this material was
19 being used.

20 Q. Okay. And I note, Dr. Hopke, that this
21 Table 7 refers to D3312 Algoflon, right?

22 A. Yes.

23 Q. And the document you showed me before
24 referred to D3312X Algoflon, right?

25 A. Yes.

Page 122

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Q. Are they the same thing?

3 A. I'm not sure.

4 Q. What have you done to assess whether or
5 not they are the same thing, if anything?

6 A. I have tried looking on the internet, but
7 there's not a lot of detail available.

8 Q. Other than you ran Google searches or
9 something?

10 A. Yes.

11 Q. Other than surfing the internet to see if
12 there's a difference between D3312 Algoflon and D3312X
13 Algoflon, have you done anything else?

14 A. No.

15 Q. Do you have any information, if it was
16 used in Bennington, Vermont, in what processes it was
17 used in Bennington, Vermont, either D3312 Algoflon or
18 D3312X Algoflon?

19 MS. JOSELSON: Object to the form.

20 A. Okay. The only thing I can tell is that
21 it was used in relatively large amounts, according to
22 the spreadsheet.

23 Q. Do you know what, if any, processes or
24 products it was used with?

25 A. No, I do not.

Page 123

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Q. Dr. Hopke, at -- I believe it's your

3 Exhibit 7. It's that Krusic 2005 paper.

4 A. Uh-huh.

5 Q. Do you have it in front of you?

6 A. I can bring it back up.

7 Q. Do you remember on page 1514, it had the
8 statement by Krusic about the decomposition of APFO in
9 quartz?

10 Do you remember that, on the right column?

11 A. Yes.

12 Q. And I think I was understanding you to say
13 that you didn't know if that data was reliable -- I'm
14 sorry. Strike that.

15 Do you believe that that statement is
16 reliable?

17 A. I don't know, because the corresponding
18 data is not provided in the paper.

19 Q. And, Dr. Hopke, if you look just in -- in
20 the left column that's in the right column, beginning
21 with the paragraph -- with the word "Previously" --

22 A. Uh-huh.

23 Q. -- doesn't it run through the data?

24 A. No. That's the sodium borosilicate glass.

25 That's the 2004 paper that we looked at before, and we

Page 124

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 questioned that because of the presence of the
3 transition metals in the -- in the glass.

4 Q. Do you see the last sentence of the
5 paragraph that begins with the word "Previously"?

6 A. Uh-huh.

7 Q. Can you read out loud, "It was,
8 therefore..." Can you read that sentence.

9 A. "It was, therefore, of interest to examine
10 APFO thermolysis in flame-dried quartz ampoules in
11 order to ascertain whether the APFO decompos" --
12 "decompos" -- "decomposition process was also
13 sensitive to the type of reactive surface."

14 Q. And do you see the next paragraph, where
15 it actually provides the data relating to this
16 experiment?

17 A. Okay. Yes. But, again, in the other
18 cases we were provided with nice, detailed data. We
19 were not provided with nice, detailed data here. So
20 it's -- it's less compelling because the -- one would
21 have liked to have seen parallel kinds of information
22 as they provided for in Figures 3 and 4.

23 Q. So let's discuss that, Dr. Hopke.

24 In the paragraph there in the left column,
25 it tells you the temperature range that the APFO was

Page 125

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING
2 studied at quartz, right? 196 to 234 degrees Celsius?
3 A. Yes.
4 Q. And does it tell you the amount of
5 starting material that was used?
6 A. Yes. Well, yeah, it tells us...
7 Q. And does it identify the internal mass
8 standard that was used?
9 A. Yes.
10 Q. Does it tell you the observed rate
11 constants?
12 A. It -- it gives us the parameters of the
13 rate constants, yeah.
14 Q. Does it tell you the associated activation
15 parameters?
16 A. Yes.
17 Q. Does it tell you the amount of
18 perfluorooctanamide that was observed?
19 A. Yes.
20 Q. Does it tell you the yield of that minor
21 product?
22 A. Yes. It tells us it was found to decrease
23 monotonically, moderate. It says modest amounts.
24 Q. Does it tell you the effective temperature
25 on that yield?

Page 126

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. Yes.

3 Q. Does it tell you the half-life of APFO in
4 quartz?

5 A. Yes.

6 Q. And was it 2 seconds at 307 degrees
7 Celsius?

8 A. Yes.

9 Q. So what information is provided for PFOA
10 decomposition in this paper that you find to be
11 important that is not provided for APFO?

12 A. Again, it would be nice to see the time
13 course that they show in Figure -- Figures 2 and -- or
14 3 and 4, rather.

15 Q. So I -- go ahead. Go ahead.

16 A. Again, just for completeness, it would
17 have been much better to have shown all of the
18 results. I mean with an NMR, they should be able to
19 get fast enough response to be able to show, even over
20 that short time, what the time course looked like.

21 Q. So it does show that APFO and quartz
22 decomposed in -- for a half-life of 2 seconds at 307
23 degrees Celsius, right?

24 A. Right.

25 Q. And while, in your view, it may have been

Page 127

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 nice to provide more time course information, does
3 that render this unreliable, in your view?

4 MS. JOSELSON: Object to the form.

5 A. No, it doesn't render it unreliable. It
6 renders it somewhat incomplete.

7 Q. But you don't reject the findings of
8 Krusic based on a lack of data relating to APFO and
9 quartz when there's all this data provided that we
10 just discussed, do you?

11 MS. JOSELSON: Objection.

12 A. At this high temperature, yes.

13 Q. The question might not have been
14 formulated the right way, or I might not have
15 understood your answer.

16 A. Okay. Well, again, they're only providing
17 you one temperature. And so, you know, at this -- at
18 this upper end of the range, it clearly -- it would
19 appear to decompose in quartz relatively rapidly.

20 Q. So maybe I can tie it off and we can move
21 on.

22 So do you reject Krusic's finding of the
23 decomposition of APFO in quartz as stated in Krusic's
24 2005 paper?

25 MS. JOSELSON: Object to the form.

Page 128

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. I don't reject it, no.

3 Q. Dr. Hopke, do you agree that in order for
4 APFO to be emitted as PFOA from the coating towers
5 that Saint-Gobain or CHEMFAB utilized in Bennington
6 and North Bennington during the manufacturing process,
7 that the APFO in the solution would have to acidize
8 into PFOA?

9 MS. JOSELSON: Object to the form.

10 A. It would have to be converted into PFOA,
11 but my mech -- the mechanism I proposed in the
12 rebuttal report provides the pathway to do so.

13 And we see PFOA in the plant in this
14 recent Barr site report with the wipe tests where it's
15 up on the I-beams, it's up in the stacks, so clearly
16 PFOA is -- was being liberated into the plant and
17 advected into the stacks.

18 Q. So, Dr. Hopke, do you -- do you agree or
19 do you disagree that in order for APFO to be emitted
20 as PFOA from the coating towers during the
21 manufacturing process, the APFO in the solution would
22 have to acidize into PFOA?

23 MS. JOSELSON: Objection.

24 A. No, not in solution.

25 Q. Were you ever of the view, Dr. Hopke, that

Page 129

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 the APFO in the solution would have to acidize into
3 PFOA in order for it to be emitted from the coating
4 tower?

5 A. I don't think so.

6 Q. Wasn't that the basis of your original
7 report?

8 A. No. It wasn't stated sufficiently clearly
9 that we were looking at the -- excuse me -- release as
10 the material dried.

11 Q. Do you have your -- your deposition
12 transcript from your original deposition?

13 A. It's here somewhere, yeah.

14 Q. It's Exhibit --

15 MS. JOSELSON: 12.

16 Q. -- 12.

17 A. It's a big, thick document. So there we
18 go.

19 Q. So, Dr. Hopke, if you read the question
20 and answer at page 73, lines 1 through 5 of your
21 deposition dated April 3, 2018 --

22 A. Yeah, there was some possibility at pH 4
23 that it could go. But, again --

24 Q. I'm sorry, Dr. Hopke. I was asking if you
25 could read aloud --

Page 130

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. Okay. Read aloud.

3 Q. -- lines 1 through 5 of page 73 of your
4 deposition dated April 3, 2018.

5 A. Okay. "Yeah, because, again, we have
6 information that at pH 4, about 6 percent of the PFO
7 is really -- really is PFOA."

8 Q. So I think you may be on a different
9 question and answer. That might be the source of
10 the --

11 A. 71?

12 Q. I'm sorry. Page 73 --

13 A. 73. Oh, okay.

14 Q. -- at lines 1 through 5.

15 A. "Do you agree" -- okay.

16 Q. Can you read it aloud?

17 A. Yes, please. Sure.

18 Q. Thank you.

19 A. "Do you agree that in order for APFO to be
20 emitted as PFOA from the cooling tower during the
21 manufacturing process, the APFO in a solution would
22 have to acidize the PFOA; is that correct?"

23 And I answered: "Yes."

24 But, again, I'm not good at depositions.

25 This was my first one. And we're not really talking

Page 131

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING
2 about release from solution, so it's -- you know,
3 it's, again, a bit of a "gotcha" question.

4 Q. Dr. Hopke, when you submitted your
5 acknowledgment where you tried to clarify things that
6 you thought needed clarifications, did you identify
7 this question and answer, this one that needed to
8 be --

9 A. No. There were just too many, so I -- no,
10 I did not make the change. I should have.

11 Q. As you sit here today, do you agree with
12 what you said at your deposition dated April 23rd,
13 that the APFO in solution would have to acidize into
14 PFOA in order for it to be emitted from the towers?

15 A. If it's coming from the solution. Okay?
16 That's not what we're hypothesizing. So, again, we're
17 comparing apples and oranges here.

18 The whole purpose of the drawing is to get
19 it into solids. Once it's in a solid, then it has the
20 opportunity to rearrange and sublime.

21 Q. And none of that discussion about solids
22 and the opportunity to sublime was in your original
23 class certification report, correct?

24 MS. JOSELSON: Object to the form.

25 A. I didn't -- I didn't provide that level of

Page 132

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 detail.

3 Q. So to close it out, Dr. Hopke, is it true
4 or is it not that in order for APFO to be emitted as
5 PFOA from the coating tower during the manufacturing
6 process, the APFO in the solution would have to
7 acidize into PFOA?

8 MS. JOSELSON: Objection.

9 A. If it's coming from the solution, not if
10 it's coming from the solid.

11 Q. And is it coming from the solution, in
12 your opinion, in this case?

13 A. Probably not. But I think there's a very
14 high probability that it's coming from the solid.

15 Q. Can you quantify that possibility or
16 probability in any way for us that you've just
17 described?

18 MS. JOSELSON: Objection.

19 A. I think it's much greater than 100 percent
20 that we have -- that -- that what's happening, what
21 supports the findings of the wipe tests is that as
22 this material dries, moves into relatively higher
23 temperatures of the order of 145, 150, it rearranges,
24 sublimes, and leaves. So it never actually gets to
25 high enough temperatures that it can decarboxylate.

Page 133

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Q. And the wipe test that you're referring
3 to, you had not reviewed at the time you submitted
4 your rebuttal report, right?

5 A. They weren't available until August of
6 this year.

7 Q. Okay. So accepting for argument's sake
8 that they weren't available -- maybe it answers the
9 question, but let me just see if I can ask it.

10 Did you review that wipe test that you're
11 pointing to when you formed your opinions in your
12 rebuttal report?

13 A. No. It came after the rebuttal report.
14 So it's supporting my opinions now, but it was not
15 available to be -- to be included into the rebuttal
16 report.

17 Q. And then if we could go back to the
18 exhibit -- is it Exhibit 5D that has the spreadsheet
19 page that mentions Algoflon?

20 A. Uh-huh.

21 Q. So am I correct that you utilized this
22 spreadsheet, Dr. Hopke, in calculating -- that's 5D --
23 potential emissions in this case?

24 A. No. All I used that for was to say that
25 there was APFO in the D3312.

Page 134

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 What I did was to take the values provided
3 in the other spreadsheet --

4 Q. Which is what?

5 A. -- Exhibit 19 spreadsheet, where it
6 indicates that D3312 was used and that there was the
7 emission of a quantity used of 2,506 pounds of wet
8 weight.

9 Q. So you -- you used Exhibit 19 from your
10 prior deposition to calculate your potential emissions
11 in this case?

12 A. Right, along with the other -- other
13 surfactants. So we took the sum of the materials
14 used, and that's how we come up with the 6,952, if I
15 remember correctly.

16 Q. And all of that information that you just
17 mentioned is from your Exhibit 19 to your prior
18 deposition?

19 A. Correct.

20 Q. Except you used the Exhibit 5 for the
21 content related to Algoflon; is that right?

22 A. Right.

23 Q. 5D, I'm sorry. Right?

24 A. Right. To know that -- because the
25 spreadsheet provided simply says "surfactant." And so

Page 135

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING
2 trying to track down what that surfactant was, we had
3 the Exhibit 20 sheet and we had Mr. Knapp's deposition
4 to indicate that the surfactant was actually APFO.

5 Q. And did you make any assumptions in
6 preparing your calculations related to this
7 spreadsheet 19, Exhibit 19?

8 MS. JOSELSON: Object.

9 You can answer.

10 A. No. I mean, again, the only surfactant
11 listed in Exhibit 20 is APFO, so that we then took the
12 surfactant here and added it in as additional APFO.

13 Q. For --

14 A. I mean -- and it's -- and, again, just
15 following the indication from -- from this
16 spreadsheet.

17 Q. Which spreadsheet are you referring to
18 now?

19 A. That's the Exhibit 19 spreadsheet.

20 Q. For what period of time did you assume
21 that the quantities identified in Exhibit 19 were
22 used?

23 A. I did not make any assumptions as to what
24 the unit of time was. We know that this was from --
25 prepared in 2001. It's unclear what period of time it

Page 136

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING
2 covers.

3 Q. Was it -- do you know if it was monthly
4 data or weekly data or yearly data?

5 A. It's my understanding that this was annual
6 use.

7 Q. And what do you base that understanding
8 on?

9 A. Because they were -- they were -- my
10 understanding is that they were providing this for
11 permit purposes, and permit purposes would be your
12 annual emissions.

13 Q. And did you determine whether the plant
14 had the capacity to run all of these materials on an
15 annual basis --

16 MS. JOSELSON: Object.

17 Q. -- in Bennington and North Bennington?

18 MS. JOSELSON: Sorry. Object.

19 A. No. Again, the -- this is saying "actual
20 raw material use." "Actual" means that's what we
21 used.

22 Q. So did you consider whether or not, if all
23 the towers were operating in North Bennington --

24 A. Actual use.

25 MR. FLEMING: I'm sorry.

Page 137

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 MS. JOSELSON: You have to let him finish.

3 A. Sorry.

4 Q. So maybe it will be an answer to the -- to
5 the question.

6 You're basing your view solely on that
7 phrase that you just identified from this table; is
8 that correct?

9 A. I have no other basis to make a decision.
10 When -- when Saint-Gobain says, "This is what we
11 used," I have no reason to doubt them.

12 Q. Did you test in any way whether or not the
13 towers -- did you run any calculations to try to
14 determine whether or not the capacity of Bennington or
15 North Bennington could run all of these materials in a
16 given year?

17 A. No, I did not.

18 Q. When you were using this spreadsheet
19 that's Exhibit 19, did you assume that none of the
20 emitted PFOA was destroyed by catalytic abatement
21 equipment?

22 A. Yes.

23 Q. When using Exhibit 19 to calculate your
24 emissions estimates, did you assume that all of the
25 APFO that was contained within the incoming materials

Page 138

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 would convert to PFOA?

3 A. Yes.

4 Q. Did you assume that the APFO concentration
5 was the highest concentration in the "not less than"
6 range reflected on MSDSs?

7 A. I didn't make any such assumption. I
8 simply took the numbers provided by Saint-Gobain.

9 Q. Do you know if the numbers on the
10 spreadsheet at Exhibit 19 for the APFO concentrations
11 are the highest concentrations in the "not less than"
12 ranges reflected on the applicable MSDSs?

13 A. I do not know.

14 Q. Do you have an opinion, Dr. Hopke, as to
15 whether or not, when an MSDS identifies a range "not
16 less than" for a particular constituent, that means
17 that the concentration is right at that highest
18 maximum range?

19 MS. JOSELSON: Objection.

20 Q. Do you have an opinion on that?

21 A. I don't have an opinion one way or
22 another. I haven't made any kind of measurements to
23 determine distributions.

24 Q. So if an MSDS, by way of example,
25 identified .33 percent for APFO content, as you sit

Page 139

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING
2 here today, do you have any basis to know whether or
3 not that might mean .1 percent in reality, .2 percent
4 in reality, or .3 percent in reality, all are less
5 than .33 percent?

6 MS. JOSELSON: Objection.

7 A. Nominally they could be in that lower
8 range. The question is, would there be sufficient
9 performance by the product in ensuring that there was
10 not flocculation in the Teflon, and thereby reduce the
11 quality of the product.

12 So one assumes that they had sufficient
13 material in order to provide a functional product, and
14 one -- it is highly likely that that concentration to
15 provide that is going to be close to or at the MSDS
16 limit.

17 Q. Do you have any data to support your view,
18 Dr. Hopke, that it may be the case that in order to
19 make the product functional, in order to make the
20 product sufficient, it has to be at that high range of
21 the MSDS?

22 Do you have any data to support that?

23 MS. JOSELSON: Objection.

24 A. No, I have no direct data. But we do know
25 that on occasion they added additional surfactant in

Page 140

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING
2 order to get the sufficient dispersion to get the
3 product quality they required.

4 Q. So we know that on occasion surfactants
5 were added, right?

6 A. Yes.

7 Q. Do you know what the content was to start
8 with?

9 A. No, I don't.

10 Q. So you don't know if --

11 A. I don't have that level of detail.

12 Q. Right. So you don't know if it exceeded
13 the range or brought it up closer to the highest part
14 of the range, right?

15 A. I don't know.

16 Q. When using the spreadsheet that is
17 Exhibit 19, did you assume that none of the generated
18 PFOA emissions would be destroyed in the towers
19 themselves?

20 A. Yes.

21 Q. Dr. Hopke, do you recall that on occasion
22 the equipment within the towers had to be cleaned?

23 A. Yes.

24 Q. Do you recall that there was particulate
25 on occasion in the towers or in the catalytic

Page 141

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 abatement equipment?

3 A. Yes.

4 Q. So it was capturing something, right?

5 A. Well, it's not clear there were -- there
6 were particles in the abaters. There was certainly
7 silicon deposition from, presumably, siloxanes that
8 were being used. That would be gas phase, not
9 particulate. You would not expect a lot of
10 particulate matter to accumulate on the abaters.

11 The diffusion coefficients of the
12 particles is much too low to permit significant
13 deposition in the -- in the abaters. That's why they
14 went to a filtration system in Merrimack as the test
15 for PFOA abatement.

16 Q. Have you -- can you cite to me any tests
17 or any documents that would show that there was not
18 particulate matter within the towers?

19 A. No, I have no such data.

20 Q. And --

21 A. I mean there are certainly -- again, there
22 are certainly some deposition, things like on the
23 wall, because that's part of where the PFOA that comes
24 up in the wipe test would come from. But that's going
25 to be relatively small compared to the volume of

Page 142

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 material going out the stack.

3 Q. And I think you -- well, let me ask it
4 this way: So there may be some particulate matter
5 within -- there may have been some particulate matter
6 within the coating towers; is that fair?

7 A. Some. Very limited.

8 Q. And can you cite any paper, any test data,
9 any evidence as to the amount of particulate that
10 would have been caught within the coating towers that
11 you just described as very limited?

12 A. All we have is the wipe tests, and there
13 is very limited data there.

14 Q. And, again, these are the wipe tests that
15 you reviewed after you submitted your rebuttal report?

16 A. Yes.

17 Q. Since your last deposition, Dr. Hopke,
18 have you reviewed any stack test data related to
19 CHEMFAB or Saint-Gobain for PFOA or APFO?

20 A. No.

21 Q. Have you reviewed any, since your last
22 deposition, industrywide data relating to stack tests
23 for PFOA or APFO?

24 A. No.

25 Q. So I take it since your last deposition,

Page 143

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 you haven't gone back to form any new opinions or to
3 evaluate -- well, strike that.

4 I'll ask it straightforwardly without
5 introduction.

6 Since your last deposition, have you
7 reviewed any stack testing data, you know,
8 methodologies that were utilized for testing PFOA or
9 APFO?

10 A. No.

11 Q. I take it since you haven't reviewed that,
12 you're not offering an expert opinion on any actual
13 stack test data for PFOA or APFO?

14 MS. JOSELSON: Objection.

15 Q. Is that fair?

16 A. Not beyond what we've already talked
17 about.

18 Q. So I'm focused on stack -- if we've talked
19 about your analysis of stack test data for PFOA or
20 APFO, I would like you to point that out to me.

21 MS. JOSELSON: Objection.

22 A. No. You asked questions last time about
23 stack tests in Merrimack and who's at fault, and I was
24 at that point not very aware of that material, and so,
25 you know -- and I haven't done anything further.

Page 144

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 I mean the point is, my -- the -- one of
3 the major focuses of the critique of what I've been
4 doing was the chemistry, and so I focused primarily on
5 the chemistry here.

6 Q. Okay.

7 A. So the new material is -- the rebuttal
8 material is focused on clarifying the -- explicating
9 the mechanism, hopefully more -- more clearly than I
10 have in the past.

11 Q. So in your prior deposition, you had
12 testified that you had not reviewed the publicly
13 available industrywide -- strike that.

14 I want to show you your testimony, and we
15 can talk about it, just to make sure -- I really want
16 to explore whether anything has changed since then
17 that you've done to support your rebuttal report.

18 So if you'd take a look at page 108 of
19 your prior deposition, at lines 14 through 17.

20 A. 108?

21 Q. Page 108.

22 A. Yes.

23 Q. I had asked: "Did you review the publicly
24 available industrywide material balance report in
25 coming to your opinions in this case?"

Page 145

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 And at that time you had said "No," right?

3 A. Yes.

4 Q. Now, let me ask you, did you review the
5 industrywide material balance report in coming to your
6 opinions that you expressed in your rebuttal report?

7 A. No.

8 Q. Did you review the stack test data for
9 Saint-Gobain specifically in forming your views in
10 your rebuttal report?

11 A. No.

12 Q. Did you form any view as to whether or not
13 the data -- well, strike that.

14 Have you reviewed how the air sampling was
15 done in either the industrywide stack testing report
16 or the Saint-Gobain-specific stack testing report?

17 MS. JOSELSON: Object to the form.

18 A. No.

19 Q. I'm sorry?

20 A. No.

21 Q. Dr. Hoppe [sic] -- Hopke, I'm sorry -- did
22 you review --

23 MR. FLEMING: Thank you. Do you want to
24 change it now, the disk? It's up to you.

25 We might as well. We'll take a quick

Page 146

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 break.

3 MS. JOSELSON: Okay. It was getting to be
4 an hour anyway.

5 MR. FLEMING: Okay. Very good.

6 THE VIDEOGRAPHER: The time is 1:57. We
7 are now off the record. This marks the end of Disk
8 Number 2.

9 (The proceeding recessed at 1:57 p.m.)

10 (The proceeding reconvened at 2:01 p.m.;
11 appearances as before noted.)

12 THE VIDEOGRAPHER: The time is 2:02.
13 We're back on the record.

14 PHILIP K. HOPKE, PhD, resumes;

15 CONTINUING EXAMINATION BY MR. FLEMING:

16 Q. We're back from a quick break, Dr. Hopke.
17 Let me see if I could continue, if I may.

18 For your rebuttal report, did you consider
19 the temperatures used by Saint-Gobain or CHEMFAB in
20 their coating fabric processing?

21 A. Yes.

22 Q. And can you explain to me the temperatures
23 that were used by them?

24 A. Okay. I mean they're actually fairly
25 nicely laid out in Mr. Chinkin's report as well. You

Page 147

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING
2 know, they have temperatures in -- for the drawing --
3 let's see if I have it.

4 MS. JOSELSON: While you're looking, I'll
5 just object again; asked and answered in the last
6 depo.

7 MR. FLEMING: Can you just read the
8 question back, and I'll see if I formulated it
9 correctly.

10 (The reporter read the requested material.)

11 Q. And then you were beginning to defer to
12 Mr. Chinkin's report?

13 A. Yeah. It's a -- it's a good summary. I
14 don't have -- I don't have anything else handy with me
15 that goes back to the process documents.

16 Q. And your -- that report was submitted
17 after your original deposition, right?

18 A. Yes.

19 Q. And it's referenced in your rebuttal
20 report, right?

21 A. Yes.

22 Q. So let's talk about what -- the
23 temperatures you considered in connection with your
24 rebuttal opinions in this case, Dr. Hopke.

25 A. Right. So we have a drawing that runs

Page 148

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING
2 from 93 to 149 degrees C, baking that runs from 288 to
3 343 degrees C, and fusing that goes from 316 to 371 C.

4 Now, the key, however, is that in moving
5 from the drawing to the baking, you have to go through
6 a thermal gradient. And so there will be a period of
7 increase in temperature, which will support more rapid
8 reorganization of the APFO and subsequent sublimation
9 of the PFOA.

10 Q. And can you point me to any test data for
11 APFO that would support -- well, strike that.

12 Can you cite to me any test data or any
13 papers that talk about the -- did you say
14 rearrangement of APFO?

15 A. That's what we're -- we've been talking
16 about all day, is the transfer of the proton to the
17 PFO and the de -- decompo -- the separation into
18 ammonia and PFOA.

19 And if we want to use Scheme 2 in Zhu as
20 the analogy, that's fine, but the point is that --
21 that you are going to release ammonia and PFOA as --
22 as it heats, prior to any kind of decarboxylation.

23 Q. When you say "if we want to use Scheme 2,"
24 who are you referring to?

25 A. You, me, any of us.

Page 149

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Q. So you're the person being deposed. I
3 want to know what --

4 A. Okay.

5 Q. -- what your opinion is. You said that --

6 A. My opinion -- my opinion is that -- that
7 we are going to get that kind of rearrangement and
8 sublimation. As the temperature goes up, it will
9 sublime. We're moving the air away from the product
10 and into the tower, in order to make sure that the
11 product is thoroughly dried and -- and not
12 contaminated.

13 And so we're -- we have a good stream of
14 flow away that's going to take the sublime material up
15 into the tower and out into the environment.

16 Q. You rely on Scheme 1 from Zhu in your
17 rebuttal report. Do you still rely on that, or do you
18 no longer rely on that?

19 MS. JOSELSON: Objection.

20 A. It doesn't -- it's not terribly critical.
21 Scheme 1 is going to -- is somewhat easier to
22 understand. The fine details into Scheme 2 still
23 provides the same basic mechanism, whereby we have to
24 transfer the proton to the acid and release the
25 ammonia.

Page 150

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Q. So my question is more narrow. It's
3 really not whether the differences between Scheme 1
4 and Scheme 2 are critical or not critical.

5 My question is: You rely on Scheme 1 in
6 your report, correct?

7 Am I correct about that?

8 A. I provide Scheme 1 as a -- as a simple
9 schematic to try and have people understand that there
10 has to be the proton transfer and the separation of
11 the ammonia and the PFOA.

12 Q. And you previously testified that you were
13 relying on Scheme 1 for your opinions in this case.

14 And my question is: Is that still the
15 case? Are you still relying on Scheme 1 that is cited
16 in your rebuttal report in this case or not?

17 MS. JOSELSON: Objection. Asked and
18 answered.

19 You can answer it again.

20 A. I'm relying on the basic chemistry that's
21 going to rearrange that proton and give us the
22 opportunity to separate the PFOA and the ammonia.

23 Now, I -- I could have put in the much
24 more complicated diagram from Scheme 2 that would
25 have -- again, trying to provide a clear path -- a

Page 151

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 clear description of the underlying basic chemistry
3 without getting into the really super-details of...

4 Q. Wouldn't it have been clearer --

5 MS. JOSELSON: Let -- do you want to just
6 let him finish?

7 MR. FLEMING: I think he was finished. He
8 looked at me.

9 Q. Were you finished?

10 A. Yeah.

11 MR. FLEMING: Okay. So I was right. He
12 finished.

13 Q. So, Dr. Hopke, wouldn't it have been
14 clearer to cite the scheme that the authors of the
15 paper proposed instead of the ones that they rejected?

16 MS. JOSELSON: Objection to form.

17 You can answer it again.

18 Q. Wouldn't that have been clearer?

19 A. To whom? I mean, to a chemist, yes.

20 I'm trying to project this to lawyers and
21 average people, and so I'm not sure -- you know,
22 again, I'm not sure that that additional level of
23 complexity is going to make it clearer to the target
24 audience.

25 Q. And you thought it was important to

Page 152

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING
2 identify Zhu in your rebuttal report as a paper you're
3 relying on, right?

4 A. Yeah, because it provides fairly clear
5 evidence that this mechanism is likely -- is, you
6 know, highly likely.

7 And by analogy and from the hypothesis
8 provided by Barton et al., it seems the mechanism by
9 which we would expect to get PFOA into -- into the gas
10 phase.

11 Q. Can you identify anywhere in Zhu that says
12 the mechanism that you adopted is highly likely to
13 apply to APFO?

14 A. No.

15 Q. And, in fact, Zhu looked at ammonium
16 chloride, right?

17 A. Yes.

18 Q. Now, if you'd turn to Barton 2009, which
19 is your Exhibit 5C.

20 A. Yes.

21 Q. In fairness to yourself, Dr. Hopke, I say
22 you should have a copy of it in front of you. But if
23 you don't feel a need to do that, just let us know.

24 A. Too much paper.

25 Q. So I would like to direct you to page 754

Page 153

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 of Barton 2009, which is Exhibit 5C.

3 A. Uh-huh.

4 Q. And do you see where it says "Sublimation
5 mechanism for APFO"?

6 A. Uh-huh.

7 Q. It says, quote, "The sublimation mechanism
8 for ammonium salts was recently explored in Zhu
9 et al., using NH₄Cl as an example."

10 Did I read that right?

11 A. That's correct.

12 Q. And do you see where Barton 2009, the
13 paper you are relying on, says, "The authors speculate
14 a multi-stage process is involved"?

15 Do you see that?

16 A. Yes.

17 Q. And do you agree with Barton 2009 that the
18 Zhu paper authors were speculating --

19 A. No.

20 Q. -- about a multi-stage -- you disagree
21 with Barton 2009 on that?

22 A. I disagree. Scientists don't speculate;
23 they hypothesize.

24 Q. Okay. So --

25 A. And they have good evidence -- they have

Page 154

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 good evidence for it. It fits the facts.

3 I mean, again, science is always
4 questioning how things work. You develop evidence.
5 You provide hypotheses. You test them to the best
6 extent you can.

7 Zhu et al. have tested their hypothesis.
8 It is highly plausible and highly likely that that is
9 a pathway to the sublimation that they see.

10 Q. So -- and to be clear, Zhu et al. did not
11 call it highly likely, right?

12 A. They suggested that this was the
13 mechanism. They would not present it unless they
14 thought it was the likely mechanism.

15 Q. Did Zhu et al. say that it was highly
16 likely their mechanism was correct?

17 A. No. They did not include the adverb.

18 Q. So you are characterizing their
19 conclusions in a way different from how the authors
20 themselves characterized them, correct?

21 MS. JOSELSON: Objection.

22 A. I am -- from reading the paper and my
23 knowledge of chemistry and etcetera, feel that they
24 are -- you know, that this mechanism is highly
25 plausible to me and will be applicable to the APFO

Page 155

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 case.

3 Q. In talking about the speculation comment I
4 asked you to make, are you saying that scientists do
5 not speculate, or they -- they're incapable of
6 speculating?

7 A. Well, they're certainly capable of
8 speculating, but a good scientist tries not to
9 speculate. He tries to hypothesize so that you have,
10 then, a testable hypothesis that you can then go on to
11 the next step and see if you can gain additional
12 knowledge that leads to a better understanding of the
13 underlying phenomenon.

14 Q. So as a scientist, Dr. Hopke, what's the
15 definition of a "hypothesis"? Is it proven?

16 A. No. It is -- it is our best estimation of
17 what is likely to happen.

18 Q. Are all hypotheses, under your definition,
19 likely?

20 A. No. Well, again, one generally tries to
21 state likely hypotheses and then test them. Not all
22 hypotheses are true.

23 Q. And if a hypothesis was likely, it would
24 be important to say that it's likely, right, as a
25 scientist?

Page 156

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. Well, again, you would not put a mechanism
3 into a paper if you did not think it was likely.

4 Q. Do you have any --

5 A. And -- and the reviewers would tear it
6 apart.

7 Q. Do you have any paper related to a
8 scientific method or any other support for the view
9 that a scientist in a paper cannot or should not
10 develop a hypothesis that hasn't reached the level of
11 likelihood?

12 MS. JOSELSON: Objection to form.

13 Q. Can you cite anything that's --

14 A. No, no, no, no, no. You're -- you're
15 twisting the words.

16 Q. Okay. I don't mean to, so why don't you
17 explain.

18 A. Okay. One can -- you know, one can take
19 the data and then propose a mechanism. That, in
20 effect, is a hypothesis.

21 Now, in this case, all of the data that
22 they have collected reasonably fits that hypothesis.
23 There's no way to statistically test it in the way
24 some other kinds of hypotheses can be tested.

25 But the fact that -- that all of the data

Page 157

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING
2 suggest -- support this -- this -- this mechanism then
3 leads us to a reasonable conclusion that this is what
4 is likely to be happening.

5 Q. Barton 2009 is a peer-reviewed paper,
6 right?

7 A. Yes.

8 Q. So the peer reviewers didn't prevent
9 Barton from stating that the Zhu authors were
10 speculating, did they?

11 A. Yes, which was surprising.

12 Q. And if we can continue with the next
13 sentence, it says, "The multi-stage sublimation
14 model" -- this is in Barton 2009.

15 MS. JOSELSON: Can you give me a page
16 reference?

17 MR. FLEMING: Sure. It's the next
18 sentence that we were just reading from, so it's 754.

19 THE WITNESS: Uh-huh.

20 MR. FLEMING: It's the next sentence.

21 THE WITNESS: It's about ten lines up from
22 the bottom in the left column.

23 MR. FLEMING: It's the third sentence
24 underneath "Sublimation mechanism for APFO."

25 Q. "This multi-stage sublimation model can be

Page 158

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING
2 applied to hypothesize the mechanism of sublimation
3 for APFO."

4 Did I read that correctly?

5 A. Uh-huh.

6 Q. So it's a hypothesis, according to Barton,
7 that the sublimation mechanism proposed by Zhu for
8 ammonium chloride could apply to APFO; is that fair?

9 A. Yes.

10 Q. Now, do you know how long each of those
11 phases that you mentioned before relating to
12 Saint-Gobain's processes would occur in time?

13 A. No, I do not.

14 Q. And do you know if there was a variation
15 based on a particular product that may have been the
16 subject of coating?

17 A. No, I do not.

18 Q. Do you know how many different processes
19 Saint-Gobain or CHEMFAB utilized to coat fabrics?

20 A. No, I don't know the specific number. I
21 mean, obviously there were the 32 different processes
22 that were outlined in Exhibit 20. So I assume that
23 there are something in that number of possibilities.

24 Q. Since your -- well, strike that.

25 In connection with your rebuttal report,

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Dr. Hopke, have you attempted to identify other
3 potential sources of PFOA or APFO in the area of
4 Bennington and North Bennington?

5 A. No. Dr. Siegel was taking care of that
6 and has covered that extensively in his rebuttal
7 report.

8 Q. So that's not your department, that's
9 Dr. Siegel's department; is that fair?

10 A. Yeah.

11 Q. Colloquially.

12 A. Yes. Because he could use the
13 distribution of well data to help clarify the
14 potential for other sources.

15 Q. Dr. Hopke, at the outset of the
16 deposition, you mentioned some teleconferences that I
17 think you -- well, strike that.

18 Did you mention some teleconferences at
19 the outset of the deposition?

20 A. Yes.

21 Q. Can you identify what those
22 teleconferences were and with who, taking each in
23 turn?

24 A. Okay. The main one was with -- with
25 Dr. Shin, who is a consultant on the -- as I

Page 160

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING
2 understand it, a consultant on the Hoosick Falls
3 plants. And so I was just trying to find out from him
4 whether he had any additional information on the --
5 the chemistry that -- that I was describing. He did
6 not.

7 Q. And when did this telephone call take
8 place?

9 A. Sometime in May.

10 Q. This would have been, then, after your
11 deposition?

12 A. Yes.

13 Q. And before your rebuttal report was
14 submitted.

15 A. Yes.

16 Q. And I think you described Dr. Shin as a
17 "consultant." Consultant for whom, if you know?

18 A. I think it's the folks here who are
19 involved in the plaintiffs' side of Hoosick Falls, but
20 I'm not -- because when we were here in April, we were
21 discussing with -- I don't remember the partner
22 here --

23 MS. JOSELSON: If you know, you can answer
24 his question.

25 THE WITNESS: Yeah.

Page 161

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. So I don't know -- I don't remember his
3 name, but anyways, he was -- he was involved -- he was
4 one the people involved in that case, mentioned Shin.

5 I obviously had seen the papers, and so we
6 wanted to talk to him to see if he had any additional
7 information that would be relevant to the Bennington
8 site.

9 And so we arranged for a call, largely
10 discussed his studies of the Washington Works, which
11 were published in the 2011 paper, but really didn't
12 get any additional insights into anything that would
13 be applicable, specifically applicable to Bennington.

14 MR. FLEMING: And, Emily, I say this
15 respectfully: I think the same rule about not
16 interrupting the witness that applies to me should
17 apply to you too. So I would ask you not to interrupt
18 the witness as he's answering a question.

19 Q. Dr. Hopke, who else was on the phone with
20 Dr. Shin?

21 A. Gary Yoder was certainly on. I don't
22 remember whether Gary Davis was or not.

23 Q. Anyone else?

24 A. No, I don't think so.

25 Q. About how long did that phone call last?

Page 162

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. 45 minutes to an hour. Certainly no
3 less -- no more than an hour.

4 Q. And I just didn't understand your answer.
5 So it's the same question. But forgive me; I didn't
6 understand the answer.

7 Do you have any understanding as to who
8 Dr. Shin is a consultant for?

9 MS. JOSELSON: Asked and answered.

10 You can answer it again.

11 A. Again, the -- whatever this -- Parseghian
12 & Lang?

13 Q. Okay.

14 A. So that's -- that was my understanding,
15 but I didn't really get into the details.

16 Q. A plaintiffs' attorneys' firm, right?

17 A. Right.

18 Q. Okay. And how did you come to get on the
19 phone with Dr. Shin?

20 A. Well, we got his email and set up a time
21 for a call that we could all make.

22 Q. Dr. Shin -- who got an email? You got an
23 email?

24 A. We got his email address, and so we were
25 able then to --

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Q. Whose idea was it to contact Dr. Shin?

3 A. I certainly raised that issue, yeah. I
4 mean, again, he's somebody who's published as -- you
5 know, I mean, his publications are primarily about the
6 Washington Works, but then I heard he was also working
7 on a coating plant. Then I wanted to see if he had
8 any additional insights that would be helpful to us.

9 Q. Okay. So you raised the idea to contact
10 Dr. Shin; is that right?

11 A. Yeah.

12 Q. Anything -- can you describe what was
13 discussed with Dr. Shin in any more detail than you
14 already have?

15 A. Well, again, we discussed things like the
16 particle size distributions that we went over in some
17 detail back in April.

18 And, you know, again, just what, if
19 anything, he could add to the chemistry. And, you
20 know, he's -- he's not that -- wasn't that versed in
21 the chemistry, so it really didn't provide any
22 additional information.

23 Q. So are you relying on anything that
24 Dr. Shin told you on that phone call for your opinions
25 in this case?

Page 164

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. No.

3 Q. Was there another teleconference that you
4 had after your deposition and before you submitted
5 your rebuttal report?

6 MS. JOSELSON: Objection.

7 A. We had a call with Gary Yoder to, once
8 again, go over his questions with regard to the
9 particle size distributions that he then put into
10 his -- his rebuttal report.

11 Q. Are you relying on anything that Gary
12 Yoder said on a phone call with you for your opinions
13 in this case?

14 A. No.

15 Q. And who was on that call with -- with Gary
16 Yoder?

17 A. Just Gary and I.

18 Q. And how long did that call last?

19 A. 45 minutes.

20 Q. And roughly when did that call occur?

21 A. July. Somewhere in July, so that he would
22 have -- you know, because he was getting ready to get
23 his report in by August 1.

24 Q. Were there any other phone calls that you
25 had related to this case that occurred in between the

Page 165

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING
2 time you were deposed and the time you submitted your
3 rebuttal report?

4 A. No.

5 Q. How about after you submitted your
6 rebuttal report, did you have any similar types of
7 teleconferences?

8 A. Yeah. We had a general group conference
9 call in September that included Don Siegel and Ed
10 Hinchey and Gary and -- Gary Yoder and I and Gary
11 Davis.

12 Q. Was any of the discussion on that phone
13 call -- strike that.

14 Are you basing any of your opinions on
15 rebuttal in this case on anything that you were told
16 in that phone call?

17 A. Well, the rebuttal report was in six weeks
18 before that call occurred.

19 Q. Understood. Understood.

20 A. In terms of supporting my opinions now,
21 not so much the phone call, but obviously I've read
22 Dr. Siegel's report, and -- and particularly with
23 respect to other sources.

24 And so, you know, that -- that was part
25 of, you know, our separation of tasks in order to

Page 166

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING
2 adequately respond to the comments that we had gotten.

3 Q. Is there any more work that you intend to
4 do in this case to support your opinions?

5 A. Only for what I'm asked to do.

6 Q. And as you sit here today, do you have any
7 understanding as to whether or not you will be asked
8 to do more work in this case?

9 A. Not that I'm aware of.

10 Q. So I can only go with what your intentions
11 are as we sit here today. I mean, you're not sitting
12 there thinking, "I know I'm going to be doing this
13 extra work, but I'm not talking about it now."

14 Do you intend to do any more work, as far
15 as you know, in this case to support your opinions?

16 A. Not that I -- not that I know of.

17 Q. Okay.

18 A. I mean, it depends on what the courts
19 want, you know. If we have to come for hearings or
20 things like that, then we'll do what we have to do.

21 Q. Okay. So I think -- there are a couple of
22 documents that -- that you mentioned in the composite
23 Exhibit 5 that I would like to talk to you about.

24 One would be the Shin paper and the other
25 would be a document related to wipe samples that you

Page 167

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 discussed.

3 So I don't have a copy of the Shin paper,
4 as you brought one copy for yourself, which is fine,
5 Dr. Hopke.

6 So I'm just trying to think about the
7 best way to do this. Maybe what I would suggest is we
8 could go off the record, we could take a look at the
9 Shin paper and the wipre sample document that you
10 brought with you here today, and then we can try to
11 talk to you about it.

12 A. Okay.

13 MR. FLEMING: If we're able make a copy
14 here, we would do that, but I'm not sure that we can.

15 If we take a break, we'll figure it out.

16 THE WITNESS: Okay.

17 MR. FLEMING: All right.

18 THE VIDEOGRAPHER: The time is 2:31.

19 We're off the record.

20 (The proceeding recessed at 2:31 p.m.)

21 (The proceeding reconvened at 2:48 p.m.;
22 appearances as before noted.)

23 THE VIDEOGRAPHER: The time is 2:48.

24 We're back on the record.

25 PHILIP K. HOPKE, PhD, resumes;

Page 168

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 CONTINUING EXAMINATION BY MR. FLEMING:

3 Q. So we're back on the record, Dr. Hopke.

4 Thank you.

5 I have two documents that you brought with
6 you today that I'll read into the record and I'll hand
7 back to you.

8 One is an excerpt of a document that was
9 previously marked as Exhibit 5A, and it starts with
10 Section 3.10 and it's entitled "Both Material Residue
11 and Surface Wipe Sampling."

12 And then Exhibit 5E like Edward we've
13 marked, and that's the Shin paper in "Environmental
14 Science and Technology" --

15 A. Down at the bottom.

16 Q. -- in 2011.

17 So we only have one copy, and I'll hand
18 you the copy back of 5A.

19 So, Dr. Hopke, are you relying on
20 Exhibit 5A in any way for your opinions in this case?

21 A. For my current opinion, yes. It was not
22 available in time for the rebuttal document. But this
23 would suggest that there is PFOA found extensively
24 within the plant.

25 The other thing that was of interest here

Page 169

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING
2 was that there was also PFOS, and that had been
3 previously raised as a question with regard to
4 potential other sources, and that there was no PFOS
5 used in the plant. Except that if there's PFOS in
6 these wipe samples, then there had to have been at
7 least some PO -- PFOS use in the plant.

8 Q. When did you -- how did you come to get
9 this document that is Exhibit 5A?

10 A. Okay. We got an -- I got an email from
11 Jamie Whitlock that he had gotten access to it through
12 Vermont DEP -- or DEC; gave me -- gave us the download
13 link for it. And because of the size of the document,
14 it was impossible to email, and so I downloaded it.

15 And I did not read it in its -- you know,
16 thoroughly; I skimmed it. But I found these --
17 there's parts of it that were seemingly highly
18 relevant.

19 Q. When were you provided with the link from
20 Mr. Whitlock, plaintiffs' attorney?

21 A. Somewhere between the time I came back --
22 somewhere between the 18th of August and the 31st of
23 August. I would have to go back and find the email to
24 be -- get the specific date.

25 Q. Either way, about 45 days ago or so?

Page 170

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. Something like that.

3 Q. And does this excerpt that is Exhibit 5A
4 show data on any emissions of PFOA or PFOS into the
5 environment?

6 A. No, it does not.

7 Q. Does this Exhibit 5A show any of the
8 temperatures or operating conditions that were
9 utilized when the materials identified in -- in those
10 tests were obtained?

11 MS. JOSELSON: Objection.

12 A. No, it does not.

13 Q. Or at any other time.

14 A. Or at any other -- in the portions that
15 I've read. I mean, I'm not sure whether it provides
16 any greater description of processes.

17 Q. Is it fair to say that that's not a mass
18 balance report or mass balance test?

19 A. No. These are experimental wipe tests,
20 where they went out and swiped a specific area of --
21 of the walls or the I-beams or the inside of the
22 stacks, leached the material from the wipe, and then
23 made the analysis for the listed materials.

24 Q. So I think I understood your answer and
25 what you meant by "no," but let me -- let me just ask

Page 171

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 it again, based on the way I asked the question.

3 So this Exhibit 5A, is that a mass balance
4 test or mass balance report?

5 A. No, it is not.

6 Q. Does this test -- strike that.

7 Does this Exhibit 5A tell you where inside
8 the plant PFOA was detected?

9 A. Yes.

10 Q. Where was it detected?

11 A. Again, there are schematics of -- and not
12 having been to the plant, you know, I have some
13 difficulty in terms of exactly what this -- where
14 these things are relative to the actual operations.

15 But the indication is that, you know, they
16 were looking at wall -- wall wipe samples located on
17 the first-floor office area and the other -- other
18 places. You know, "PFOA was detected in five samples
19 collected from the front office in concentrations..."
20 and etcetera, etcetera.

21 So they're looking at various places in
22 the -- in the facility with, you know, varying
23 concentrations of these compounds in terms of
24 nanograms from a given wipe sample.

25 Q. Does -- was any PFOA found inside of the

Page 172

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 towers?

3 A. There was one stack in the -- okay.

4 Okay. Now, it says, "WP03-STACK25.0
5 collected on 3/29/2018," and it says there were 19- --
6 19,000 nanograms of PFOA found.

7 Q. Does it tell you anything about where
8 within the stack it was found in terms of in the
9 drying phase, in the baking phase, or in the sintering
10 phase?

11 A. I was not able to find that level of
12 detail.

13 Q. Do you know how many stacks were involved
14 in this testing?

15 A. No. I mean, that's the only -- that's the
16 only one that was specifically labeled "stack."

17 Q. Does 5A tell you how long that material,
18 PFOA, was caught within the stack?

19 MS. JOSELSON: Object to the form.

20 A. No, it does not.

21 Q. Am I right? Is there PFOA caught in the
22 stack, according to this 5A?

23 A. Well, there's -- there is PFOA on the wall
24 in the stack, and so -- as I read it; and, therefore,
25 it's there.

Page 173

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Q. PFOA is sticky, isn't it?

3 A. Yeah, I would expect it to be, if it's in
4 the gas phase. I mean, again, much of the PFOA would
5 be expected to be associated with particulate matter.

6 Q. And the PFOA that was found within the
7 stacks in this Exhibit 5A that you brought with you,
8 was it in a solid form or a gas form?

9 A. Well, it wouldn't be in a gas form if it
10 was stuck on the walls.

11 Q. So a solid form.

12 A. Well, or a monolayer. I mean, the
13 question is what -- how thick does it need to be
14 before you determine that it's -- I mean, it could be
15 a viscous liquid.

16 Q. So what form -- I'm asking you, Dr. Hopke,
17 do you have any understanding as to what form it was
18 in, according to this Exhibit 5A that you brought with
19 you, when it was -- when the PFOA was found within the
20 stacks?

21 A. I don't know for sure. It's either got to
22 be as a thin liquid film or as deposited particulate
23 matter.

24 Q. Either way it shows that at least some
25 PFOA is collected in the stacks; is that fair?

Page 174

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 A. Deposited in the stacks, yeah.

3 Q. Okay. Dr. Hopke, maybe we can turn to
4 Exhibit 5E, which, again, is the Shin paper from 2011.

5 A. Uh-huh.

6 Q. The first question I have for you is: Are
7 you relying on the Shin paper for any opinions of
8 yours in this case?

9 A. Not directly. I mean, part of the purpose
10 of the Shin paper was to look at what they used as
11 particle size distributions to -- in other words, we
12 have -- the information we have about the Washington
13 Works, and about the only particle size distribution
14 information we have, is from the Barton thesis, the
15 other Barton paper -- which I think was 2007, but I'm
16 not sure at the moment -- and the Shin paper.

17 And so I was working with Mr. Yoder to try
18 and clarify the differences in those three sets of
19 distributions so that he could make an informed choice
20 in his rebuttal materials.

21 Q. Okay. See if I can ask a couple of
22 follow-up questions. We'll wait for the siren to
23 pass.

24 A. Sure.

25 Q. So Mr. Yoder, did you say, was interested

Page 175

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 in particle size distribution?

3 Is that fair?

4 A. Yes. This was one of the questions that
5 you had raised with -- with him and with me, and so
6 part of what we needed to do was to try and, again,
7 clarify what information was available and, in our
8 judgment -- particularly in his judgment -- what the
9 most appropriate modeling parameters were in order to
10 provide his rebuttal.

11 Q. Okay. So when did you review the Shin
12 paper from 2011?

13 A. Oh. Again, back in May, prior to the
14 teleconference with Dr. Shin, just so I'd be sure if I
15 remembered what was in his work.

16 Q. Now, you can check me, because I'm asking,
17 but am I right that Shin is not cited in your rebuttal
18 report as a paper that you're relying on?

19 A. That's correct.

20 Q. And are you comfortable with that, or are
21 you relying on Shin for any opinion in your rebuttal
22 report on class certification or otherwise on class
23 certification, or is it the case that Dr. Yoder is
24 relying on what you told him about Shin?

25 A. Well, what we discussed about Shin.

Page 176

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Again, I relied on Dr. -- on Mr. Yoder's AERMOD
3 modeling and his expertise in applying the AERMOD to
4 these kinds of problems.

5 What I was trying to do was to clarify why
6 there were several different size distributions, and I
7 think he's explained that fairly clearly in his
8 rebuttal report.

9 Q. I don't mean this in an argumentative way,
10 Dr. Hopke. I'm just trying to understand it.

11 If you're relying on Shin for your
12 opinions on class certification -- and I don't know if
13 you are, but if you are relying on Shin for your
14 opinions on class certification, why didn't you cite
15 them in either your original class certification
16 report or your rebuttal report?

17 A. Because I wasn't relying on Shin; I was
18 relying on Mr. Yoder's modeling.

19 Q. So is that another way of saying -- tell
20 me if I've got it right or not -- that you're not
21 relying on Shin 2011 for your opinions on class
22 certification in this case?

23 A. That's correct.

24 Q. And that the Shin paper that's in front of
25 you that's Exhibit 5E, it relates to a DuPont

Page 177

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 manufacturing plant, right?

3 A. That's correct.

4 Q. And that DuPont manufacturing plant did
5 not coat fabrics, correct?

6 A. That's correct.

7 MR. FLEMING: So if I may, I would like to
8 take a break and go off the record.

9 THE VIDEOGRAPHER: The time is 3:05.

10 We're off the record.

11 (The proceeding recessed at 3:05 p.m.)

12 (The proceeding reconvened at 3:13 p.m.;
13 appearances as before noted.)

14 THE VIDEOGRAPHER: The time is 3:13.

15 We're back on the record.

16 PHILIP K. HOPKE, PhD, resumes;

17 CONTINUING EXAMINATION BY MR. FLEMING:

18 Q. Thank you, Dr. Hopke.

19 We're back from the break. I just have a
20 handful of follow-up questions, I believe.

21 If you could take a look at Exhibit 5A.

22 Again, that's the wipe test document that you
23 excerpted and brought with you today, right?

24 A. Uh-huh.

25 Q. Are you able to quantify how much PFOA was

Page 178

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 inside the stacks at the time that that test was
3 conducted?

4 A. No.

5 Q. Do you have any reason to believe that the
6 PFOA sample -- PFOA samples that were drawn and
7 identified in the excerpt that you brought with you
8 were the only amounts of PFOA that were caught within
9 the stacks?

10 A. That would be unlikely.

11 Q. You mentioned PFOS before in connection
12 with this Exhibit 5A, right?

13 A. Yes.

14 Q. Do you know where that PFOS came from that
15 was identified in 5A? Do you know what source?

16 A. Which -- which -- no, I have no idea what
17 source. All I can -- all I can do is scan this and
18 see that there are some locations in which it was --
19 it was found at up to 140 nanograms per wipe. So...

20 Q. Did you see any locations where PFOA was
21 found, but not PFOS?

22 A. I didn't look that carefully.

23 Q. Could you look now and see if, in fact,
24 there were locations at PFOA was found, but not PFOS?

25 A. Yeah.

Page 179

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Yes, there are such locations.

3 Although --

4 Q. And do you know the source of the PFOA in
5 those locations that was found, but without PFOS?

6 A. Not specifically. I haven't gone back and
7 looked in that level of detail at -- at the schematics
8 and understanding the building dynamics.

9 Q. And do you have any information or
10 documentation showing that whatever the source may
11 have been of the PFOS that's identified in this 5A was
12 used in Bennington and North Bennington?

13 MS. JOSELSON: Object to the form.

14 A. I don't have any direct information that
15 says that it was or wasn't. The point is that it's
16 there.

17 Q. In Merrimack, right?

18 A. No, this is Bennington.

19 Q. Oh, I'm sorry. In Bennington.

20 A. Yeah. So it's clearly there in
21 concentrations, you know, that are up a high of 140
22 nanograms. So...

23 Q. Can I take a look at the exhibit again.

24 Thank you.

25 A. And in multiple locations.

Page 180

1 PHILIP K. HOPKE, PhD - BY MR. FLEMING

2 Q. Okay, Dr. Hopke. So I think we can wrap
3 up the deposition.

4 I mean, Dr. Hopke, do you believe that
5 we've adequately covered the opinions that you intend
6 to express related to class certification in this
7 case?

8 MS. JOSELSON: Objection.

9 A. Yes, I believe so.

10 Q. Okay. To the extent -- well, strike that.

11 MR. FLEMING: Thank you very much,
12 Dr. Hopke. I have no further questions.

13 THE WITNESS: Okay.

14 MS. JOSELSON: I'm done. I have no
15 questions.

16 THE WITNESS: Okay. Thank you.

17 THE VIDEOGRAPHER: The time is 3:18.

18 We're off the record. The deposition is complete.

19 (TIME: 3:18 p.m.)

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Page 181

1

2 W I T N E S S

3 Name

Examination by

Page

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5 Philip K. Hopke, PhD Mr. Fleming 4-180

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Page 182

	Hopke	Description	Marked	ID'ed
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EXH 1	Hopke original class certification report, dated 9/1/17	8	9	
EXH 2	Declaration of Philip K. Hopke, PhD	8	9	
EXH 3	Hopke merits report, dated 12/15/17	8	9	
EXH 4	Hopke rebuttal report on class certification, dated 8/1/18	8	10	
EXH 5	Composite - Materials brought to deposition by Dr. Hopke, relating to the case, PFOA, and/or APFO	13	13	
EXH 5A	Barr Engineering site report relating to wipe sampling	16	16	
EXH 5B	Zhu 2007 paper	46	46	
EXH 5C	Barton 2009 article	103	103	
EXH 5D	"Components" tab of spreadsheet	113	113	
EXH 6	Krusic and Roe 2004 paper	59	60	
EXH 7	Krusic/Roe 2005 paper	59	60	
EXH 8	Lines, Sutcliffe 1984 paper from "Journal of Fluorine Chemistry"	76	76	
EXH 9	Hercules 2016 article from "Journal of Fluorine Chemistry"	76	77	
(Index to Exhibits continuing on next page)				

Page 183

1
2 **E X H I B I T S**
3 (Continuing)

4 Hopke	5 Description	6 Marked ID'ed

7 EXH 10	8 Dr. Hopke's notes taken during 9 deposition	10 78 78
11 EXH 11	12 1953 Lazerte article	13 87 87
14 EXH 12	15 4/3/18 deposition transcript of 16 Philip Hopke, PhD	17 93 93
18 EXH 13	19 Acknowledgment of Deponent, 20 dated 5/9/18	21 93 93
22 EXH 14	23 Spreadsheet previously marked 24 as Exhibit 20	25 114 114

14 * * *

15 **EXHIBITS PREVIOUSLY MARKED**

16 Exhibit	17 Description	18 Page

19 EXH 19	20 Document titled "Actual Raw Material 21 Use, Saint-Gobain, Merrimack, New 22 Hampshire"	23 120

24 * * *

Page 184

1

2 D O C U M E N T R E Q U E S T S

3 Request

Page

4 -----

5 Updated copy of Hopke curriculum vitae (by
6 Mr. Fleming)

25

7

8 * * *

9

10 C E R T I F I E D Q U E S T I O N S

11 Question

Page

12 -----

13 (No Certified Questions)

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Page 185

1 CERTIFICATE OF DEPONENT

2
3 I have read the foregoing transcript of
4 my deposition and except for any corrections or
5 changes noted on the errata sheet, I hereby
6 subscribe to the transcript as an accurate record
7 of the statements made by me.

8
9
10 PHILIP K. HOPKE, Ph.D.

11
12 SUBSCRIBED AND SWORN before and to me
13 this ____ day of _____, 20 ____.

14
15
16
17 NOTARY PUBLIC

18
19
20 My Commission expires:

Page 186

1 ERRATA SHEET

2 VERITEXT LEGAL SOLUTIONS

3 330 OLD COUNTRY ROAD

4 MINEOLA, NEW YORK 11501

5 516-608-2400

6 NAME OF CASE: SULLIVAN VS. SAINT-GOBAIN PERFORMANCE

7 DATE OF DEPOSITION: OCTOBER 16, 2018

8 NAME OF DEPONENT: PHILIP K. HOPKE, Ph.D.

9 PAGE LINE(S) CHANGE REASON

10 _____|_____|_____|_____

11 _____|_____|_____|_____

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15 _____|_____|_____|_____

16 _____|_____|_____|_____

17 _____|_____|_____|_____

18 _____|_____|_____|_____

19 _____|_____|_____|_____

20 _____|_____|_____|_____

21 _____
22 PHILIP K. HOPKE, Ph.D.

23 SUBSCRIBED AND SWORN TO BEFORE ME

24 THIS ____ DAY OF _____, 20 ____.

25 _____
(NOTARY PUBLIC)

MY COMMISSION EXPIRES:

Page 187

1

2 C E R T I F I C A T I O N

3

STATE OF NEW YORK:

4

COUNTY OF MONROE:

5

I, KIMBERLY A. BONSIGNORE, do hereby
certify that the foregoing testimony was duly sworn
to; that I reported in machine shorthand the foregoing
pages of the above-styled cause, and that they were
produced by computer-aided transcription (CAT) under
my personal supervision and constitute a true and
accurate record of the testimony in this proceeding;

6

I further certify that the witness
requests to review the transcript;

7

I further certify that I am not an
attorney or counsel of any parties, nor a relative or
employee of any attorney or counsel connected with the
action, nor financially interested in the action;

8

WITNESS my hand in the City of Rochester,
County of Monroe, State of New York.

9

10

11



12 KIMBERLY A. BONSIGNORE

13

Freelance Court Reporter and

14

Notary Public No. 01B06032396

15

in and for Monroe County, New York

[& - 2011]

Page 1

& & 2:3 3:23 162:12 0 00125 1:6 3:19 01b06032396 187:24 05753 2:4 1 1 6:5,11 7:8 8:3,14 9:12,14 18:15 25:23,25 36:22 38:15 39:14 46:22 47:21 48:5,14,20 48:21,24 49:15,20 50:3,10,13,17,18 51:12,13 52:3,12 52:18 53:2 54:12 79:24 85:23 107:24 129:20 130:3,14 139:3 149:16,21 150:3,5 150:8,13,15 164:23 182:5 1,000 104:12 105:4 105:7 109:4 1/2 32:5 10 10:20 25:24 46:7 77:21 78:7 78:10 105:19,23 182:10 183:6 100 80:3 85:21 99:5,11,12,15 104:20,21 108:12 132:19 10036-6797 2:9 1008 187:23 101.43 25:25 103 182:16,16 10695 103:21 111:12	108 144:18,20,21 10936 103:21 108:20 111:12 1095 2:9 10:00 46:9 10:07 46:10 10:08 46:12 10:51 75:25 10:52 75:23 11 87:11,14,25 90:5 183:7 111 2:4 113 182:17,17 114 183:12,12 11501 186:2 11:05 76:2,6 12 10:20 11:2 93:2 93:4 129:15,16 183:8 12/15/17 182:9 120 183:19 12:01 107:16,18 13 93:2,8,19,21 116:14,16 182:13 182:13 183:10 130 54:25 55:2 13831 47:2,22 48:3 13833 47:25 13835 50:23 14 114:11,17 144:19 183:11 140 178:19 179:21 143 98:21 108:13 108:22 144 109:9 145 132:23 14614 1:14 149 148:2 15 10:2 101:7 150 98:22 108:13 109:8 132:23	150.6 28:23 1514 65:2 123:7 16 1:16 3:2,8,10 28:19,25 182:14 182:14 186:4 16,000 109:9 165 56:3,7,11,16 165,591 109:10 17 5:24 144:19 18 10:19 13:24 18th 169:22 19 76:20 116:19 120:15,18,20 114:5,9,17 135:7,7 135:19,21 137:19 137:23 138:10 140:17 172:5 183:18 19,000 172:6 19104 2:13 1953 88:4 183:7 196 69:24 75:5 85:23 125:2 1983 75:14 1984 182:20 1:04 107:19 1:05 107:21 1:57 146:6,9 1h 60:20 61:2 91:6 1st 9:15 10:8	146:8 148:19,23 149:22 150:4,24 182:7 2,506 134:7 20 10:19 13:24 112:10 113:10 114:8,22 115:9 116:2,3,10 117:4 117:10,18 135:3 135:11 158:22 183:12 185:13 186:23 2001 116:21 135:25 2003 70:15 2004 60:5,14 73:9 73:13 74:11 88:15 123:25 182:18 2005 60:9 62:3,6 67:19 68:13 69:20 123:3 127:24 182:19 2006 18:17 45:20 2007 12:19 14:19 18:16 39:13 45:13 45:14,20 46:3 47:2 51:24 174:15 182:15 2009 12:19 14:17 33:10 38:19 41:2 49:23 54:20 96:23 97:18 100:18 102:7,23 103:8,20 103:25 105:10 108:18 152:18 153:2,12,17,21 157:5,14 182:16 2011 12:19 14:21 161:11 168:16 174:4 175:12 176:21
		2 2 7:9 8:14 9:2,18 9:19,21 48:21 49:4 51:7,13 52:3 52:8,17 53:5 55:22 62:3 71:21 76:8 78:19 79:18 89:15 90:8 94:25 97:9 101:19 108:25 126:6,13 126:22 139:3	

[2016 - 90]

Page 2

2016 78:3 182:22	316 148:3	5	73:12,13 74:3,6
2017 9:15,21 10:2 78:12 80:13,23	31st 169:22		102:13 103:13,14
2018 1:16 3:2,8,10 5:24 6:2,5,11 10:9 93:5,8 129:21 130:4 186:4	32 116:11 158:21		108:15,17,21
21 11:17	33 138:25 139:5		130:6 182:18
210 80:4	330 118:17,19 186:2		6,952 116:24 134:14
22 11:17,17 13:25	3312 119:3,4 120:6		60 182:18,19
230 93:14 94:23	3312x 120:7		62 10:16 11:11
231 96:13	343 148:3		683 24:3
232 93:14	351 16:23		6a 45:23
234 75:5 125:2	37.292 104:3 4		7
23rd 131:12	371 148:3		7 59:19,21,23 60:8
25 184:5	373 104:20		60:9 66:14,17,21
28 1:14 5:25	3800 60:22		68:14,19 103:10
288 148:2	3801 73:25 74:6		103:11 121:2,12
2929 2:13	3803 74:17		121:21 123:3
2:01 146:10	3:05 177:9,11		182:19
2:02 146:12	3:13 177:12,14		71 130:11
2:31 167:18,20	3:18 180:17,19		73 129:20 130:3,12
2:48 167:21,23	 4		130:13
3	4 7:9 8:3,16,17,23 10:6,11 19:3 20:11 32:5 46:21 65:4 71:22 73:11 89:15 97:10 111:16 124:22 126:14 129:22 130:6 182:10		754 103:7 152:25 157:18
3 2:8 7:9 8:15 9:24 9:25 32:5 48:21 49:7 73:11,14 93:5 111:22,24 124:22 126:14 129:21 130:4 139:4 182:8	4-180 181:5 4.5 99:6,10,13,16 108:12 109:7		76 182:21,21,23
3.10 168:10	4.5. 102:5		77 182:23
3.2 28:19	4/3/18 183:8		78 183:6,6
3.3 31:19	423.15 109:8		8
3.3. 32:7	45 108:22 162:2 164:19 169:25		8 76:5,14 78:14,19 182:6,7,9,10,20
3.6 50:25	46 182:15,15		8/1/18 182:10
3/29/2018 172:5			82 11:2
30.814 103:25 108:21 111:19			84 76:20
307 126:6,22			87 183:7,7
			9
			9 76:5 77:20,24,25 78:12,13 80:8 84:4 93:7 182:6,7 182:9,22
			9/1/17 182:6
			90 83:11

93 148:2 183:9,9 183:10,10	acidize 128:7,22 129:2 130:22 131:13 132:7	adopted 152:12 adopts 50:2,9 52:3 52:12	americas 2:9 ammonia 22:21 23:12 30:25 33:12 37:11 42:3 57:21 69:11,12 91:6 148:18,21 149:25 150:11,22
94 11:2	acids 58:4 88:3	advance 117:18	ammonium 22:15 22:20 30:24 31:9
99 61:3	acknowledgment 92:23 93:6,17,18 97:4 131:5 183:10	advantage 82:12	34:12,23 36:5
9:00 1:18	action 1:6 187:16 187:16	adverb 154:17	37:7,9 38:20 39:21 41:21 42:13
9:01 3:4,7	activation 125:14	aermod 176:2,3	42:20 43:2,5,9,21
a			
a.m. 1:18 3:4,7 46:9,10 75:25 76:2	activities 23:23 69:2,8 70:11	aerosol 24:6	43:24 44:3,8,10
abatement 137:20 141:2,15	actual 16:9 23:17 29:15 31:23 53:6 74:16 90:25	affect 52:18	50:7,10,13,19
abaters 141:6,10 141:13	103:19 120:21 121:2 136:19,20	ago 96:18 119:15 169:25	51:23 52:22 53:8 57:22 58:3 67:20
abide 6:12	136:24 143:12 171:14 183:18	agree 22:4 26:15 58:19 61:7 74:24 75:2,3 78:18 79:4	70:23 71:24 72:13 74:18 84:13,18,21
ability 6:23 7:2,3 26:13 114:2	add 31:21 163:19	91:11 105:3,3,4	74:18 84:13,18,21
able 29:11 88:24 100:6 107:8 108:8 126:18,19 162:25 167:13 172:11 177:25	added 34:19 103:24 135:12 139:25 140:5	116:15 128:3,18 130:15,19 131:11 153:17	75:22 58:3 67:20 84:24 85:3,10,14
absolutely 35:6 86:25 115:2	addition 6:16 66:25	agrees 35:6	85:22 86:9 87:7
absorb 48:8	additional 20:19 23:7 34:17,19 82:19 108:21	ahead 5:21 35:17 106:12 126:15,15	89:17,19,25 90:8
acceptable 70:9	135:12 139:25 151:22 155:11	aided 187:8	90:12,15 91:4
accepting 133:7	160:4 161:6,12 163:8,22	ain't 13:15	118:13 152:15
access 68:17 81:11 169:11	address 162:24	air 23:4 81:7 145:14 149:9	153:8 158:8
accessing 115:18	adequate 29:10 30:14	al 1:3 3:18 18:16 22:19 33:10 38:17	amount 13:8 14:13 16:19 125:4 125:17 142:9
accumulate 141:10	adequately 166:2 180:5	40:18 152:8 153:9 154:7,10,15	amounts 122:21 125:23 178:8
accumulated 112:19	adhere 64:12	algo 118:12	ampoules 67:23 124:10
accurate 185:6 187:10	adopt 53:2 68:23 69:5	algoflon 112:5 120:4,6,12,16 121:21,24 122:12	analog 43:4,8 analogous 38:16 42:11
acid 21:9 39:3,7 42:20,21,21 57:18 57:21 71:25 76:24 86:6 89:18 149:24		122:13,17,18 133:19 134:21	analogs 42:24 analogy 39:25 42:9 48:23 148:20 152:7
		allow 89:20	analysis 78:23 143:19 170:23
		aloud 129:25 130:2,16	
		amended 5:24	

[analyzed - august]

Page 4

analyzed 79:21	57:11,15 58:20,23	application 52:17	ascertain 124:11
annual 136:5,12 136:15	59:9 60:15,19,24 62:7,10 64:23	applied 61:14 68:24 69:7 105:9 116:13,16 158:2	asked 6:22 26:9 28:6 33:21 42:16 60:12 67:11 71:4
answer 6:17 17:12 33:18,22 42:17 51:15 70:13 71:6 85:6 96:9 110:14 110:16 113:8 127:15 129:20 130:9 131:7 135:9 137:4 150:19 151:17 160:23 162:4,6,10 170:24	66:11 67:20 68:5 68:6,24 69:12,17 69:23 70:3,22 71:10,16,24 72:19 73:4,17,19 74:12 75:9 78:20 79:5 80:4 84:14,19,22 84:25 85:4,11,14 86:11 87:7 89:17 89:25 90:15 97:19	applies 39:24 40:4 40:15 41:15 50:17 50:19 52:8 161:16	95:3,8 96:13 143:22 144:23 147:5 150:17 155:4 162:9 166:5 166:7 171:2
answered 26:9 28:6 29:24 31:3 33:21 42:16 60:13 67:11 71:5 95:7 96:18 130:23 147:5 150:18 162:9	97:24 98:2,6 99:6 103:15 104:7 105:10 106:21 112:6 118:16 119:5 123:8 124:10,11,25 126:3,11,21 127:8	apply 41:21 42:5 50:13 104:5 152:13 158:8 161:17	asking 63:23 77:25 129:24 173:16 175:16
answering 161:18	127:23 128:4,7,19	applying 176:3	assembly 24:6
answers 133:8	128:21 129:2	appreciate 78:8 113:17	assess 122:4
anybody 73:6	130:19,21 131:13	approach 37:18 51:19	associated 27:17 125:14 173:5
anyway 146:4	132:4,6 133:25	appropriate 25:13 42:14 175:9	assume 5:2 135:20 137:19,24 138:4
anyways 161:3	135:4,11,12	april 4:15 24:3 66:22 67:6 93:5	140:17 158:22
apart 156:6	137:25 138:4,10	129:21 130:4	assumes 139:12
apfo 12:4,7,11 13:4 15:21 16:4,7 16:10 22:17,18 24:13,18,22 30:20 31:7 32:23,23 33:4,7,12,14,19 34:7,24 35:8,25 36:4,12 37:7	138:25 142:19,23 143:9,13,20 148:8 148:11,14 152:13 153:5 154:25 157:24 158:3,8 159:3 182:13	131:12 160:20 163:17	assumption 138:7
appear 127:19	appearances	arch 2:13	assumptions 135:5 135:23
	46:11 76:3 107:20 146:11 167:22	area 11:4 15:24 30:6 159:3 170:20 171:17	atmosphere 25:22
	177:13	areas 94:13	atmospheric 98:14
	appearing 2:2,6	argument's 133:7	atom 57:19
	apples 131:17	argumentative	atomic 89:20
	applicable 138:12	176:9	atoms 43:16,22
	154:25 161:13,13	arranged 112:24 161:9	attached 43:16 57:21,22 58:3 72:12
		article 47:21 66:25	attempted 93:22 159:2
		75:5,14 78:19	attorney 40:9 67:8 108:5 110:22
		79:5 80:11,22	169:20 187:14,15
		84:4,6,8 87:10,25	attorneys 162:16
		88:7,9,12 182:16	audibly 6:17 85:6
		182:22 183:7	audience 151:24
		articles 14:23	august 5:24 6:5,11 10:8 133:5 164:23
		20:10	

169:22,23	barium 84:11 85:3	beginning 56:7	bit 107:7 131:3	
authors 83:6,18,24	barr 12:15 16:12	76:7 92:20 123:20	blank 13:8	
151:14 153:13,18	17:5 128:14	147:11	bond 72:10,16	
154:19 157:9	182:14	begins 112:2 124:5	85:18 86:16 89:21	
available 122:7	barton 12:19 14:9	behalf 1:4 2:2,6	bonded 71:25	
133:5,8,15 144:13	14:16 22:19 30:21	16:7	89:18	
144:24 168:22	33:10 38:17 40:18	beijing 24:9	bonsignore 1:22	
175:7	40:23 41:3,17,20	belabor 45:19	3:13 187:4,23	
avenue 2:9	42:11 49:23 50:4	believe 17:19 18:3	borosilicate 67:23	
average 151:21	51:18,19 54:20	18:8,18,23 20:5,21	123:24	
averaged 92:6	95:20 96:22 97:18	21:20 22:13 34:22	bottom 115:3,23	
avoided 95:22	97:22 98:4 99:13	38:6 50:16,18,22	157:22 168:15	
award 24:6,16	100:18 102:7,23	61:9,10,13 75:9,11	bound 72:13	
awarded 24:5	103:8,20,25	76:14 89:23 94:10	break 44:15,20,24	
aware 57:3 63:20	105:10 108:17,22	95:14 96:5 104:15	45:23 72:11,16	
68:17 87:3 88:14	108:24 152:8,18	123:2,15 177:20	76:11 77:3 101:4	
143:24 166:9	153:2,12,17,21	178:5 180:4,9	101:10 102:23	
axis 108:25,25	157:5,9,14 158:6	believed 21:12	107:24 108:5	
b				
b 182:2 183:2	174:14,15 182:16	believes 73:2	146:2,16 167:15	
back 17:2 18:19	base 20:9 42:19	bennington 15:24	177:8,19	
46:13,14 56:9	121:9 136:7	15:25 116:13,22	breaking 89:21	
57:19 62:13 66:22	based 5:25 22:19	120:12,13 121:3	briefly 4:20	
67:5 73:9 76:7,11	30:21,23 38:20	121:15 122:16,17	bring 59:15 123:6	
78:14 88:18 97:8	39:11 56:2 99:6	128:5,6 136:17,17	brought 12:10	
100:9 102:14	99:10,22 108:7,17	136:23 137:14,15	13:2 83:23 102:20	
107:15,22,23	127:8 158:15	159:4,4 161:7,13	113:10 115:11	
110:18,18 123:6	171:2	179:12,12,18,19	140:13 167:4,10	
133:17 143:2	bases 17:23	best 5:6,7,7 7:2	168:5 173:7,18	
146:13,16 147:8	basic 149:23	121:6 154:5	177:23 178:7	
147:15 163:17	150:20 151:2	155:16 167:7	182:11	
167:24 168:3,7,18	basically 37:18	better 34:3 43:8	bryant 2:8	
169:21,23 175:13	48:22 89:11	58:12,15 115:6	budget 83:14	
177:15,19 179:6	107:10	126:17 155:12	building 179:8	
background 23:21	basing 38:10	beyond 15:17	c	
baking 148:2,5	121:14 137:6	143:16	c 2:1 3:1 53:11	
172:9	165:14	big 13:10,12 70:14	54:25 56:3 69:24	
balance 144:24	basis 51:4 91:8	104:6,14 105:9,15	98:22 108:13,13	
145:5 170:18,18	129:6 136:15	105:16,18 129:17	148:2,3,3 184:2,9	
171:3,4	137:9 139:2	billed 11:5,7,11,12	187:2,2	
	beams 128:15	billing 11:8,9	calcium 84:10,23	
	170:21		84:24	

[calculate - citation]

Page 6

calculate 99:11 100:4 104:25 108:23 109:3 112:10 134:10 137:23 calculated 54:18 54:21 104:15 106:17,19 calculating 108:9 133:22 calculation 100:16 104:10 110:11,20 111:8 calculations 98:19 100:17 135:6 137:13 calculator 100:7 108:9 call 23:23 47:7 110:11,17 154:11 160:7 161:9,25 162:21 163:24 164:7,12,15,18,20 165:9,13,16,18,21 called 4:5 87:25 92:22 120:21 calling 79:6 calls 164:24 capable 155:7 capacity 136:14 137:14 caption 3:17 capturing 141:4 carbolics 88:2 carbon 43:16,22 57:19 89:21,21 carboxy 71:25 89:18 carboxyl 43:18,24 72:12	carboxylic 58:4 88:3 care 159:5 carefully 178:22 case 3:17,19 9:10 10:15 11:6,15 12:11 13:3 16:11 17:18,25 18:7 32:10 39:17 40:12 42:21,21 50:15 51:25 52:19 68:25 70:10 71:3 88:16 93:5 95:14,16,18 98:2 100:15 105:12,24 110:23 113:3 116:4,16 117:12 119:17 132:12 133:23 134:11 139:18 144:25 147:24 150:13,15,16 155:2 156:21 161:4 163:25 164:13,25 165:15 166:4,8,15 168:20 174:8 175:23 176:22 180:7 182:12 186:4 cases 70:19 124:18 cat 187:8 catalytic 137:20 140:25 caught 142:10 172:18,21 178:8 cause 187:7 cautious 82:2 celsius 25:22 28:19,25 55:2 56:8,16 75:6 80:4 85:21,24 99:5,11 99:15 104:17,18	104:22 109:8 125:2 126:7,23 centre 2:12 certain 40:11 49:23 97:22 119:2 certainly 57:8 58:6 64:20 101:13 113:25 117:14 141:6,21,22 155:7 161:21 162:2 163:3 certainty 40:3,8 40:14 certificate 185:1 certification 9:15 9:20 10:8 17:15 17:18,25 18:6,11 18:20,24 20:2,3,4 20:12 21:4 22:10 66:22 92:17 95:9 95:16,21 117:11 117:16 131:23 175:22,23 176:12 176:14,15,22 180:6 182:5,10 certified 184:13 certify 187:5,11 187:13 cesium 85:10 chain 43:6 chance 9:5 23:10 79:22 change 29:22 98:7 131:10 145:24 186:6 changed 106:3 144:16 changes 185:5 characterized 154:20	characterizing 154:18 cheat 75:18 check 175:16 chemfab 34:5 128:5 142:19 146:19 158:19 chemfab's 31:11 61:14 69:2 70:11 chemical 25:16 28:16 72:7 86:5 91:12 chemically 70:17 chemist 151:19 chemistry 20:20 50:15 53:4 76:21 78:3 80:22 86:18 144:4,5 150:20 151:2 154:23 160:5 163:19,21 182:21,23 chemists 42:9 chinkin 2:16 22:14 chinkin's 12:15 14:5 35:3,5 54:24 146:25 147:12 chloride 38:20 39:21 41:21 42:14 43:9,21,24 44:3,8 50:10,13,19 51:23 52:23 53:9 152:16 158:8 chlorine 51:22 choice 174:19 choose 51:11 chose 53:2 cira 2:12 circumstances 58:22 citation 88:11
--	--	---	---

[cite - conclusion]

Page 7

cite 23:16 33:6,19 36:19 39:13 44:14 50:2,9 51:12 52:7 52:11 56:21,24 59:8 62:3 68:12 68:16 72:17 79:16 103:10 141:16 142:8 148:12 151:14 156:13 176:14 cited 19:19,20 38:15 63:21 66:17 67:14 68:14 82:23 88:14,17 104:8 105:11,21 150:15 175:17 cites 105:10 city 187:17 civil 1:6 clarification 20:19 clarifications 131:6 clarify 131:5 159:13 174:18 175:7 176:5 clarifying 144:8 clarity 37:21 96:3 118:2 class 1:4 9:14,20 10:8 17:14,17,25 18:6,11,20,24 20:2 20:3,4,11 21:4 22:10 66:22 92:16 95:9,16 117:11 131:23 175:22,22 176:12,14,15,21 180:6 182:5,10 classification 21:2 clause 74:12 cleaned 140:22	cleanly 60:24 clear 6:2 14:15 40:21 45:19 93:24 94:10,14,17 96:25 141:5 150:25 151:2 152:4 154:10 clearer 151:4,14 151:18,23 clearly 51:21 88:8 111:7 127:18 128:15 129:8 144:9 176:7 179:20 clip 13:9,10 close 91:22 112:11 132:3 139:15 closed 28:13 29:17 58:22 59:10 71:19 closer 140:13 cloth 23:5 co2 57:20 91:6 coat 158:19 177:5 coating 31:11 128:4,20 129:3 132:5 142:6,10 146:20 158:16 163:7 codes 48:4 53:9 98:10 coefficients 141:11 collaboration 24:20,22 collected 113:2 156:22 171:19 172:5 173:25 collection 16:18 102:20 collective 112:18 colloquially 159:11	colucci 2:17 3:12 column 48:4 118:11 123:10,20 123:20 124:24 157:22 combination 40:20 49:22 51:18 come 16:15 29:18 34:6,10,11 37:16 38:5,9 63:10 65:13 78:5 83:8 107:15 118:11 134:14 141:24 162:18 166:19 169:8 comes 69:6 120:14 141:23 comfortable 86:21 100:9 175:20 coming 21:18,19 21:20,22 22:4,7 cloth 23:5 co2 57:20 91:6 coat 158:19 177:5 coating 31:11 128:4,20 129:3 132:5 142:6,10 146:20 158:16 163:7 codes 48:4 53:9 98:10 coefficients 141:11 collaboration 24:20,22 collected 113:2 156:22 171:19 172:5 173:25 collection 16:18 102:20 collective 112:18 colloquially 159:11	completed 66:4 completely 61:2 completeness 126:16 completion 6:3 complex 52:24 81:9 complexity 151:23 complicated 51:9 150:24 component 118:12 components 113:10 182:17 composite 12:24 16:18 102:20 113:13 166:22 182:11 compounds 171:23 comprehensive 87:4 computer 115:16 187:8 concentration 138:4,5,17 139:14 concentrations 138:10,11 171:19 171:23 179:21 concept 95:4,22 conceptual 95:25 96:24 conceptualization 96:11 concise 14:15 conclude 41:20 concluded 39:23 40:2 concludes 41:13 concluding 50:12 conclusion 66:11 74:16,25 157:3
--	---	---	--

[conclusions - current]

Page 8

conclusions 39:16 39:19 58:19 65:13 79:17 92:16 154:19	contain 17:16,23 contained 70:18 112:6 117:4 119:5 137:25	11:25 12:2 14:20 15:11,16 17:11,13 18:14,18 19:6 21:11 22:6 34:24	correspond 108:15
conditions 25:17 29:10,19 55:7,9,24 65:16 170:8	container 29:18 58:22 59:10	36:17,18 37:2 38:22,24 39:2,15	corresponding 123:17
conduct 30:10,12 69:16 70:2,3 90:25	contaminated 149:12	39:22 40:6 43:14 45:17 46:4 47:10	counsel 3:20 6:12 11:11,25 25:2 187:14,15
conducted 16:3 178:3	content 134:21 138:25 140:7	47:12,13,15,16,18 47:19,24 48:13,15	country 186:2
conference 165:8	continue 24:7	48:16 49:20 50:20 53:19 54:17 60:10	county 187:3,18 187:25
configurations 52:22	63:15,17 77:15	69:2,3 75:10 76:22 77:2 79:5	couple 7:6 119:15 166:21 174:21
confused 65:14	continuing 46:17	92:4,14 93:22 94:11,12 95:10,11	course 56:12 64:2 93:7 111:16
congratulations 24:17	76:10 107:6 108:3	96:20 99:17 103:18,23,25	126:13,20 127:2
connected 187:15	146:15 168:2	104:4 105:10 106:20,23 108:13	court 1:2 3:13 4:2 5:13 6:19 67:13 187:24
connection 66:21 147:23 158:25 178:11	177:17 182:25	111:13,14,20 115:13,21 117:20	court's 5:24,25 67:9
consider 116:3,6,6 117:10 136:22 146:18	183:3	118:19,20 119:22 119:23 120:24,25	courts 166:18
considered 18:5 19:25 52:17 105:22 147:23	contrast 67:20	130:22 131:23 133:21 134:19	covered 67:6
considering 42:15	conversion 27:5	137:8 150:6,7 153:11 154:16,20	159:6 180:5
constant 103:24	convert 138:2	175:19 176:23 177:3,5,6	covers 26:25 136:2
constants 125:11 125:13	converted 128:10	corrected 18:21 18:23	crawford 6:2
constituent 138:16	converting 49:12	correction 46:6	critical 149:20 150:4,4
constituents 118:21	cool 81:7	corrections 97:4 185:4	criticism 71:15
constitute 187:9	cooling 130:20	correctly 13:25	critique 144:3
consultant 159:25 160:2,17,17 162:8	copy 8:7 12:14	19:16 26:2 61:5	crushed 65:17
contact 83:24 163:2,9	24:24 25:4,5 45:13 78:11 93:11	65:17 67:24 68:21 74:22 104:16	crystal 37:12 47:14 55:7,9
	100:23 102:15,25	115:14 134:15 147:9 158:4	72:13
	113:22,23,24		crystalline 53:12
	114:3,19 115:9		71:24 72:19 73:4
	117:5 118:7		73:17,18 78:20
	152:22 167:3,4,13		89:17
	168:17,18 184:5		crystals 22:16,17 22:18 36:12 47:12
	corporate 55:15		
	corporation 1:7		current 88:20
	3:19		118:6 168:21
	correct 5:16 9:16		
	9:22 10:4,9,10		

[curriculum - deposition]

Page 9

curriculum 25:6 184:5 cv 1:6 3:19 24:24 25:4	d	day 148:16 185:13 186:23 days 169:25 de 85:18 148:17 deal 82:19 dec 169:12 decar 90:20 decarboxylate 23:2,10 44:4,8,11 58:25 59:7 69:10 70:21,21 75:12 85:14 89:8 90:9 90:10 132:25 decarboxylated 56:13 decarboxylates 56:7 69:10 decarboxylating 70:22 86:8 decarboxylation 21:9 23:11 55:21 55:25 56:4,4,15,19 57:16 60:15,19 61:25 62:7,9 71:8 71:23 72:18 73:3 73:17,19 78:20 84:7 87:6 89:11 89:16,24 148:22 decarboxylize 56:22 75:10,12 december 10:2 dechert 2:8,12 dechert.com 2:10 2:14 decision 137:9 declaration 9:19 92:17 182:7 decompo 148:17 decompos 124:11 124:12	decompose 21:8 56:11,25 57:4 58:21 59:9 127:19 decomposed 61:2 68:7 69:24 126:22 decomposes 60:24 69:13 71:16 74:19 91:5 decomposing 78:22 decomposition 27:20 44:4,7 57:11 58:20 62:11 68:24 69:7 70:16 71:8 78:21 79:5,7 79:8,11,12,18 123:8 124:12 126:10 127:23 decrease 125:22 defendant 1:8 2:6 3:25 4:12 defer 147:11 define 27:12 definitely 58:10 definition 155:15 155:18 degree 30:13 40:3 54:7 60:13 63:3 63:16,18 64:11 degrees 25:22 28:9 66:25 67:2,5,15 77:12,17 80:19 93:5,25 94:22 95:4 96:14 102:21 105:24 109:16 112:9 114:9,12 115:10 116:8 117:15,19 118:6 119:4,8,14,20,22 119:25 120:18,20 121:18 129:11,12 129:21 130:4 131:12 134:10,18
---	----------	--	--

135:3 141:7,13,22 142:17,22,25 143:6 144:11,19 147:17 159:16,19 160:11 164:4 180:3,18 182:12 183:6,8 185:4 186:4 depositions 6:3,6,8 6:8 119:16 130:24 describe 25:16 41:7,10,11 95:24 95:25 163:12 described 19:13 30:22 31:15 74:18 132:17 142:11 160:16 describing 52:21 160:5 description 29:10 37:6 96:4 151:2 170:16 182:3 183:4,16 design 30:16 designed 35:19 desorption 49:7 49:10,14 53:24 destroyed 137:20 140:18 detail 55:15 67:6 122:7 132:2 140:11 163:13,17 172:12 179:7 detailed 86:19 90:22 96:4 124:18 124:19 details 42:4 73:20 73:21 82:13 83:13 95:20 149:22 151:3 162:15	detected 171:8,10 171:18 determine 21:13 29:11 136:13 137:14 138:23 173:14 determines 91:14 determining 28:15 91:12 develop 100:10,12 154:4 156:10 diagram 150:24 difference 52:21 104:6,14 105:4,9 105:17,18 106:19 122:12 differences 150:3 174:18 different 43:7 51:9 53:3 71:20 130:8 154:19 158:18,21 176:6 differential 105:24 difficulty 171:13 diffusion 141:11 dig 81:14,16 100:5 direct 93:12 139:24 152:25 179:14 directly 27:15 31:18 33:5 56:23 72:6 116:13 174:9 disagree 58:19 74:24 128:19 153:20,22 discovered 108:11 discovery 5:24 discuss 4:20 124:23 discussed 26:3 97:6 99:5 127:10	161:10 163:13,15 167:2 175:25 discusses 55:20 discussing 23:13 160:21 discussion 51:5 89:12 131:21 165:12 disk 76:8 145:24 146:7 dispersant 31:21 34:15 dispersion 112:5 140:2 dispute 91:8 dissociate 75:11 85:17 dissociated 31:8 dissociation 27:23 33:12 44:5 49:4 51:6 54:2 distribution 159:13 174:13 175:2 distributions 138:23 163:16 164:9 174:11,19 176:6 district 1:2,2 divided 104:20 document 20:16 20:23 21:5 25:5 25:11 62:17,21,23 63:9 64:4,10,19 65:19 92:22 93:18 102:19 114:19 121:16,23 129:17 166:25 167:9 168:8,22 169:9,13 177:22 183:18	documentation 179:10 documents 20:7 112:7,16 113:4 141:17 147:15 166:22 168:5 doing 12:16 24:9 78:23 86:20 94:20 108:7 111:8 117:25 144:4 166:12 don 165:9 door 81:6 double 110:12 117:5 doubt 137:11 doug 3:24 4:10 62:25 64:6 66:4 67:10 118:5 douglas 2:7 douglas.fleming 2:10 download 169:12 downloadable 82:15 downloaded 20:13 169:14 dr 4:8 6:15 7:5,6 8:6,18 9:3,4 10:15 12:18,21 13:2,24 14:11 23:14,21 25:14 26:7 28:2 30:20 37:4,17 45:10,12,14 46:18 46:22 47:6 50:21 53:5 54:7,13 55:5 55:22 56:19 58:2 58:6,18 59:22 60:14 61:8 62:22 64:3,18 65:2,18 66:6,14 68:22
--	---	--	--

70:25 71:22 73:10 73:24 75:21 76:12 76:16 77:5,11 78:4,15,18 79:25 80:9 84:5 85:25 87:10,18 88:7 89:5,14,23 91:11 92:14 93:7,11,16 94:22 95:3 96:13 97:3,8 99:3 101:9 102:3,14 103:7,17 108:4 111:11,21 112:15 114:7 117:3 120:9,19 121:5,20 123:2,19 124:23 128:3,18 128:25 129:19,24 131:4 132:3 133:22 138:14 139:18 140:21 142:17 145:21 146:16 147:24 151:13 152:21 155:14 159:2,5,9 159:15,25 160:16 161:19,20 162:8 162:19,22 163:2 163:10,13,24 165:22 167:5 168:3,19 173:16 174:3 175:14,23 176:2,10 177:18 180:2,4,12 182:12 183:6 drawing 23:2,5 131:18 147:2,25 148:5 drawn 178:6 dried 35:14 124:10 129:10 149:11	dries 22:15 34:25 35:2 132:22 dry 23:6 69:14 drying 36:7 172:9 due 16:15 duly 187:5 dupont 176:25 177:4 dynamics 179:8 e e 2:1,1,7 3:1,1 85:8 88:4,4 181:2 182:2 183:2 184:2 184:2,2,9,9,9 187:2 earlier 34:22 85:13 95:4 early 24:3 easier 5:13 149:21 easily 51:17 east 1:14 easy 53:2 eat 107:10 ed 165:9 edward 168:12 effect 106:21 156:20 effective 33:14 125:24 effectively 23:6 efficient 7:8 either 20:2 95:9 122:17 145:15 169:25 173:21,24 176:15 ejoselson 2:5 elevated 74:19 else's 15:24 119:6 email 162:20,22 162:23,24 169:10 169:14,23	emily 2:3 3:22 5:21 8:13 44:19 63:2,20 64:8,17 78:11 101:7,10 110:16 114:18 161:14 emission 134:7 emissions 92:16 116:11,20,25 133:23 134:10 136:12 137:24 140:18 170:4 emitted 128:4,19 129:3 130:20 131:14 132:4 137:20 employee 187:15 ends 12:13 energetics 72:16 engineering 182:14 enormous 20:7 83:12 ensuring 139:9 entire 28:6 60:12 entirely 97:21 entitled 168:10 entity 21:9 37:10 environment 149:15 170:5 environmental 168:13 equation 97:13,15 97:16 98:12,16 99:6,10 102:13 103:10,11,13,14 103:15 104:24 108:14,15,16,17 108:20,21 111:11 equations 104:19	equilibrium 29:18 29:19 52:22 equipment 30:15 137:21 140:22 141:2 errata 185:5 186:1 errors 94:15,16 97:23 espouse 20:24 21:3 espoused 20:17,23 esq 2:3,7,11 essentially 67:22 68:7 esters 86:3 estimated 99:12 estimates 137:24 estimating 98:5 estimation 155:16 et 1:3 3:18 18:16 22:19 33:10 38:17 40:18 152:8 153:9 154:7,10,15 etcetera 29:22,22 112:22,22 154:23 171:20,20 evaluate 143:3 evaporating 36:6 evaporation 27:16 27:17 35:20 evidence 40:17 42:10 142:9 152:5 153:25 154:2,4 exactly 24:2 35:21 79:2 86:17 171:13 examination 1:11 4:7 46:17 76:10 108:3 146:15 168:2 177:17 181:3
---	--	---	---

examine 124:9	84:4 87:9,11,13,17	experimental 65:5 65:14 73:24 74:8 170:19	facile 67:21 facilities 15:20 34:6
examined 6:7	87:25 89:15 90:5	experiments 74:18 91:3	facility 23:16 171:22
example 42:2 91:25 138:24 153:9	93:4,8,16,17,21 97:10 100:20,24 102:17,24 103:5	expert 43:13 86:22 143:12	fact 22:13 32:19 37:6 40:6,11,18 49:24 51:17 73:16 89:7 103:19 108:11,13,14 109:4 152:15 156:25 178:23
examples 86:7	111:16 112:10	expertise 176:3	factor 30:7 104:11 105:4,7,19,23
exceeded 140:12	113:10,13,20	expires 185:20 186:25	factors 30:3
excel 110:24	114:8,11,15,16,22	explain 18:4 34:7 52:25 66:8 93:20 99:4 118:7,15 146:22 156:17	facts 18:5 154:2
excerpt 12:15 168:8 170:3 178:7	114:25 115:9 116:2,3,10,19	explained 41:6 67:12 176:7	fahrenheit 28:20
excerpted 16:19 177:23	117:4,10,18 118:5 120:15,17,20	explanation 51:20	fair 5:4,5 13:8 14:13 19:21,23 21:24 25:23 30:4
exchange 29:21	123:3 129:14	explicating 144:8	31:10 39:14 42:6 45:9 47:9,23 49:2
excuse 3:9 8:19 34:4 116:9 129:9	133:18,18 134:5,9 134:17,20 135:3,7	explication 37:20 96:3	49:5 53:9 71:18 71:19 91:20 94:5
exh 8:3 9:12,18,24 10:6 13:6 16:25 46:2 59:21 60:4,8 76:5 77:24 78:10 87:14 93:2 103:6 113:21 114:17 120:18 182:5,7,8 182:10,11,14,15 182:16,17,18,19 182:20,22 183:6,7 183:8,10,11,18	135:11,19,21 137:19,23 138:10 140:17 152:19 153:2 158:22 166:23 168:9,12 168:20 169:9 170:3,7 171:3,7 173:7,18 174:4 176:25 177:21 178:12 179:23 183:12,16	explore 6:10 81:12 144:16	105:5 142:6 143:15 158:8 159:9 170:17 173:25 175:3
exhibit 8:17 9:11 9:14,17,19,23,25 10:5,11 12:24,25 13:5 16:18,22,24 17:3,3,4 19:3 20:11 45:5,11,12 45:23,25 46:21,25 51:4 59:23,23 60:3,5,7,9,15 66:14,17,21 68:14 68:19 71:22 73:12 73:13 74:3,6 76:14 77:16,20,21 77:23,25 78:6,9,12 78:13,14,19 80:8	exhibits 7:7,8 8:2 9:5 59:19,20 76:4 92:25 182:25 183:15	express 17:17,24 18:7 19:18 180:6	fairly 146:24 152:4 176:7
	exist 32:4	expressed 18:10 23:15 145:6	fairness 152:21
	expect 71:9 141:9 152:9 173:3	extensively 50:6 159:6 168:23	fall 119:13
	expectation	extent 6:10 21:13 22:14 154:6 180:10	falls 160:2,19
	105:20	extra 166:13	familiar 80:15
	expected 173:5	f	far 11:6 81:13 82:2 166:14
	experience 61:20	f 184:9 187:2	fast 126:19
	experienced 5:15	fabric 23:3 31:11 35:12 69:14 146:20	faster 92:7
	experiment 30:16 124:16	fabrics 158:19 177:5	fault 143:23
			federal 1:13 3:16

feel 86:21 93:12 152:23 154:23	72:21 74:17 75:4 87:21 88:5 94:19	69:1 70:1 71:1 72:1 73:1 74:1	168:1,2 169:1 170:1 171:1 172:1
feeling 107:12	96:6,16 108:19	75:1,20 76:1,10	173:1 174:1 175:1
fifths 36:23	112:15 119:13	77:1 78:1,11 79:1	176:1 177:1,7,17
figure 30:3,12,17 79:24 99:5,22 100:23 108:25 126:13 167:15	130:25 171:17 174:6	80:1 81:1,4,8 82:1 83:1 84:1 85:1	178:1 179:1 180:1 180:11 181:5 184:5
figures 65:22 66:10 124:22 126:13	fissan 24:5 fits 50:14 154:2 156:22	86:1 87:1,9,16,24 88:1 89:1 90:1 91:1 92:1 93:1,3	flip 73:9 flocculation 139:10
file 82:15	five 19:4 171:18	93:10 94:1 95:1	floor 171:17
film 173:22	flame 124:10	96:1 97:1 98:1	flow 149:14
filtration 141:14	fleischer's 14:7 3:24 4:1,7,10 5:1	99:1 100:1,18,22 102:1,9,12,25	fluoride 90:18 fluorine 43:16,21 76:20 78:2 80:22 90:17 182:21,23
final 74:13	5:21 6:1,13 7:1	103:1,3 104:1	fluoropolymers 74:21
finally 10:7 54:2	8:1,8,12,15,20,24	105:1 106:1,11,25	focused 143:18 144:4,8
financially 187:16	9:1,3 10:1 11:1	107:1,6,23 108:1,3	focuses 144:3
find 23:19 39:16 42:13 60:24 65:15	12:1,23 13:1,9,14 13:17,23 14:1	109:1 110:1,14,16 111:1 112:1 113:1	folks 160:18
70:8 71:2,10 126:10 160:3 169:23 172:11	15:1 16:1 17:1 18:1 19:1 20:1	113:16 114:1,18 115:1 116:1 117:1	follow 96:19 174:22 177:20
finding 127:22	21:1 22:1 23:1	118:1 119:1 120:1	followed 61:25
findings 57:10 68:24 127:7 132:21	24:1 25:1,3,9 26:1 26:11 27:1 28:1	121:1 122:1 123:1 124:1 125:1 126:1	following 8:2 9:11 9:17,23 10:5 13:5
fine 101:12,13 107:2 148:20 149:22 167:4	29:1 30:1 31:1 32:1 33:1 34:1	127:1 128:1 129:1 130:1 131:1 132:1	16:24 25:12 45:25 48:14 59:20 60:3
finish 57:24 72:22 86:12,13 106:10 107:2,7 137:2 151:6	35:1 36:1 37:1 38:1 39:1 40:1	133:1 134:1 135:1 136:1,25 137:1	60:7 76:4 77:23 78:9 87:13 92:25
finished 5:10 35:18 58:2 151:7 151:9,12	41:1 42:1 43:1 44:1,18,21 45:1,4	138:1 139:1 140:1 141:1 142:1 143:1	103:5 113:20 114:16 120:17 135:15
firm 162:16	45:7,9,22 46:1,3,5 46:14,17 47:1	144:1 145:1,23 146:1,5,15 147:1,7	follows 4:6
first 1:13 3:15 4:5 26:10 28:7 53:20 57:24 60:13,24 63:18 67:11,22	48:1 49:1 50:1 51:1 52:1 53:1	148:1 149:1 150:1 151:1,7,11 152:1	forbearance 63:11 63:14
	54:1 55:1 56:1 57:1,25 58:1 59:1	153:1 154:1 155:1 156:1 157:1,17,20	foregoing 185:3 187:5,6
	62:1,18,21 63:1,2 63:6,10,15,20,25	157:23 158:1 159:1 160:1 161:1	forgive 162:5
	64:1,7,11,16 65:1 66:1 67:1 68:1	161:14 162:1 163:1 164:1 165:1	
		166:1 167:1,13,17	

[form - graphs]

Page 14

form 19:8 22:11 22:15 23:18 25:12 29:2 31:13 34:6 34:24 35:9,11,15 36:9 40:13 66:9 72:21 86:22 88:24 91:6 96:8 99:7 100:2,15 104:9 105:13 106:22 113:7 117:7,21 122:19 127:4,25 128:9 131:24 143:2 145:12,17 151:16 156:12 172:19 173:8,8,9 173:11,16,17 179:13 formation 21:14 37:6 formed 35:8 36:2 36:4 69:12 133:11 forming 18:5 70:9 116:4 117:6,11 145:9 formula 36:19 37:3,16 38:10,14 39:11,13,20 46:23 47:2,7,8 97:25 98:20 99:15,23 103:20 104:5,7 105:10,22 106:20 111:2,7 formulated 127:14 147:8 found 65:11 66:7 69:22 95:11,15,19 96:22 125:22 168:23 169:16 171:25 172:6,8 173:6,19 178:19 178:21,24 179:5	four 9:4 36:23 fraction 98:15 frame 66:13 framework 96:24 free 93:12 freelance 187:24 freezer 28:9 29:7 frequency 72:10 front 7:7 9:5 46:21 102:24 114:2 123:5 152:22 171:19 176:24 full 10:15,16 function 78:24 97:17 functional 139:13 139:19 functions 108:9 further 20:16,17 20:22 21:5 43:11 43:12 74:13 86:21 108:6 143:25 180:12 187:11,13 fusing 148:3	generate 115:19 generated 116:21 140:17 getting 52:24 77:13,13 96:3 100:9 146:3 151:3 164:22 give 8:5,8 59:14 60:25 63:24 80:14 150:21 157:15 given 29:9 31:19 54:21 137:16 171:24 gives 125:12 giving 113:17 glass 60:16 61:18 62:11 65:17 68:8 70:15,15 123:24 124:3 glasses 75:19,22 go 5:11,21 26:4 35:17 46:18 56:9 62:13 67:5 75:20 76:12 81:2,13,23 82:2,13 84:17 g g 3:1 47:9,17 48:11 53:17 gain 155:11 gary 110:4,8,10,18 110:19,25 112:21 161:21,22 164:7 164:11,15,17 165:10,10,10 gas 26:14,21 37:14 47:17 48:11 53:18 79:3 141:8 152:9 173:4,8,9 general 165:8 generally 28:10 155:20	gobain's 31:11 35:14 61:14 68:25 69:7 70:10 121:7 158:12 goes 36:11 82:14 147:15 148:3 149:8 going 7:8 13:10,15 18:19 20:20 22:15 26:8 32:11 35:9 36:11 38:2 44:21 45:11 48:17 51:20 57:20 59:5,5 gives 125:12 giving 113:17 glass 60:16 61:18 62:11 65:17 68:8 70:15,15 123:24 124:3 glasses 75:19,22 go 5:11,21 26:4 35:17 46:18 56:9 62:13 67:5 75:20 76:12 81:2,13,23 82:2,13 84:17 good 3:6 4:8,9 42:10,23 43:4 51:20 69:14 78:3 107:5,11 130:24 146:5 147:13 149:13 153:25 154:2 155:8 google 122:8 gotcha 131:3 gotten 166:2 169:11 grab 93:11 100:22 gradient 148:6 graphical 82:18 graphs 81:18 82:8 83:13
---	--	--	---

great 78:17 82:19	hearings 166:19	hopke 1:12 3:11	89:1,5,14,23 90:1
greater 37:20 61:3	heat 59:3	4:1,4,8 5:1 6:1,15	91:1,11 92:1,14
96:2 132:19	heated 32:21	7:1,5,6 8:1,3,6,18	93:1,2,7,11,16
170:16	58:24	9:1,3,4,12,18,24	94:1,22 95:1,3
gribbin 2:11	heats 148:22	10:1,6,15 11:1	96:1,13 97:1,3,8
group 42:20,20	heavier 84:13,18	12:1,21 13:1,2,6	98:1 99:1,3 100:1
43:19,25 57:21	84:21,24 85:3,10	13:24 14:1 15:1	101:1,9 102:1,3,14
72:8,12 89:19,25	86:8 87:7 90:12	16:1,25 17:1 18:1	103:1,6,7,17 104:1
165:8	90:15	19:1 20:1 21:1	105:1 106:1 107:1
guess 107:24	heavy 85:15 89:20	22:1 23:1,14,21	108:1,2,4 109:1
gwc 3:19	90:2	24:1 25:1,5,14	110:1 111:1,11,21
h			
h 36:14 182:2	held 3:15	26:1,7 27:1 28:1,2	112:1,15 113:1,21
183:2	help 108:8 159:13	29:1 30:1,20 31:1	114:1,7,17 115:1
half 126:3,22	helpful 36:20	32:1 33:1 34:1	116:1 117:1,3,4
hampshire 120:22	163:8	35:1 36:1 37:1,4	118:1 119:1 120:1
183:19	hercules 78:3,12	37:17 38:1 39:1	120:9,18,19 121:1
hand 17:2 59:2	78:12 80:11,23	40:1 41:1 42:1	121:5,20 122:1
78:4 113:14 114:7	84:4 182:22	43:1 44:1 45:1,10	123:1,2,19 124:1
120:6 168:6,17	high 10:22 11:3	45:12,14 46:1,2,16	124:23 125:1
187:17	40:5 56:13 59:6	46:18,22 47:1,6	126:1 127:1 128:1
handed 59:22	70:20 71:9 84:12	48:1 49:1 50:1,21	128:3,18,25 129:1
62:17 87:17 118:6	85:16 89:10	51:1 52:1 53:1,5	129:19,24 130:1
handful 177:20	127:12 132:14,25	54:1,7,13 55:1,5	131:1,4 132:1,3
handled 15:21	139:20 179:21	55:22 56:1,19	133:1,22 134:1
handy 147:14	higher 28:3 61:19	57:1 58:1,2,6,18	135:1 136:1 137:1
happen 23:2 28:18	61:25 85:19,21	59:1,21,22 60:1,4	138:1,14 139:1,18
57:20 72:24	132:22	60:8,14 61:1,8	140:1,21 141:1
155:17	highest 138:5,11	62:1,22 63:1 64:1	142:1,17 143:1
happened 23:11	138:17 140:13	64:3,18 65:1,2,18	144:1 145:1,21
106:2 111:9	highly 40:21 41:3	66:1,6,14 67:1	146:1,14,16 147:1
happening 22:13	41:7 42:12 49:23	68:1,22 69:1 70:1	147:24 148:1
132:20 157:4	139:14 152:6,12	70:25 71:1,22	149:1 150:1 151:1
happens 57:14	154:8,8,11,15,24	72:1 73:1,10,24	151:13 152:1,21
96:5	169:17	74:1 75:1,21 76:1	153:1 154:1 155:1
happy 44:19	hinchey 165:10	76:5,9,12,16 77:1	155:14 156:1
hard 115:9 117:5	home 25:8	77:5,11,24 78:1,4	157:1 158:1 159:1
harder 6:19	homes 15:24	78:10,15,18 79:1	159:2,15 160:1
head 6:17,18	hoosick 160:2,19	79:25 80:1,9 81:1	161:1,19 162:1
heard 163:6	hope 27:11	82:1 83:1 84:1,5	163:1 164:1 165:1
	hopefully 144:9	85:1,25 86:1 87:1	166:1 167:1,5,25
		87:10,14,18 88:1,7	168:1,3,19 169:1

170:1 171:1 172:1 173:1,16 174:1,3 175:1 176:1,10 177:1,16,18 178:1 179:1 180:1,2,4,12 181:5 182:3,5,7,8 182:10,12 183:4,9 184:5 185:10 186:5,21 hopke's 183:6 hoppe 145:21 hour 44:16,16 92:2,2,4,10 107:25 146:4 162:2,3 hours 10:16,19,20 10:24 11:3,11,17 13:24,25 huh 6:18,18 11:23 36:15,21,24 46:24 51:8 53:7,13 59:24 65:25 74:10 80:2 82:16 85:5 89:22 90:6 92:24 94:24 95:2 96:15 99:8 110:5,7 112:3 114:10 123:4,22 124:6 133:20 153:3,6 157:19 158:5 174:5 177:24 humidity 23:5 28:15 29:16 hundred 10:23 hydrochloric 42:21 hydrofluorocarb... 60:25 hydrogen 22:20 37:8 42:19 57:19 hypotheses 41:25 50:5 154:5 155:18	155:21,22 156:24 hypothesis 41:18 152:7 154:7 155:10,15,23 156:10,20,22 158:6 hypothesize 38:18 153:23 155:9 158:2 hypothesized 41:5 42:5 hypothesizing 33:11 131:16 hypothetical 118:25	iii 2:7 imagine 105:6 immediate 81:11 impair 6:23,25 imperial 109:18 important 49:15 49:18 66:7 98:2 105:23 126:11 151:25 155:24 impossible 29:9 169:14 incapable 155:5 include 114:22 115:10 116:12 154:17 included 16:14 57:8 83:22 95:21 114:21 133:15 165:9 includes 120:16 including 82:17 inclusive 8:4 incoming 137:25 incomplete 127:6 incorrect 96:20 105:11 111:2,17 111:18 incorrectly 104:7 111:4 increase 148:7 increases 54:15,16 increasing 72:9 index 182:25 indicate 21:22 22:4 135:4 indicated 21:19,20 56:11 92:11 indicates 54:24 134:6 indicating 101:21 101:23,24 102:2	indication 64:22 73:7 135:15 171:15 individual 49:13 individually 1:3 industrywide 142:22 144:13,24 145:5,15 influencing 70:16 information 5:14 81:10,15 82:7,20 95:12,15 116:3 117:4 118:23 120:3,5,11 122:15 124:21 126:9 127:2 130:6 134:16 160:4 161:7 163:22 174:12,14 175:7 179:9,14 informed 174:19 ingredients 118:10 initial 6:7 inquire 6:8 inside 170:21 171:7,25 178:2 insights 161:12 163:8 instantly 109:15 institutions 24:8 intend 17:17,24 18:6 166:3,14 180:5 intentions 166:10 interaction 94:21 interchangeably 27:10 interest 124:9 168:25 interested 174:25 187:16
---	---	--	--

[internal - kelvin]

Page 17

internal	48:24 89:20 125:7	25:18 26:8,17,24 28:5 29:2,8,13 31:14 33:8,21 34:2,9 35:15 37:24 39:4 40:16 41:9,16,23 42:7,16 44:15,20 45:2,24 51:14 52:5,14 57:24 58:11 59:18 60:11 62:16,20,25 63:4,8,13,17,23 64:5,9,14 65:10,18 65:23 66:2,9 67:9 70:12 71:4 72:22 73:5,12 75:22 77:22 79:20 81:2 81:6 86:13 87:12 87:15 91:16 92:18 93:9 96:8,21 98:25 99:7,25 100:19 101:3,8,18 101:22,25 102:6 103:2 104:9 105:13 106:10,22 107:14 110:5,9,13 110:15 112:21 113:7 114:20 117:7,21 122:19 127:4,11,25 128:9 128:23 129:15 131:24 132:8,18 135:8 136:16,18 137:2 138:19 139:6,23 143:14 143:21 145:17 146:3 147:4 149:19 150:17 151:5,16 154:21 156:12 157:15 160:23 162:9 164:6 170:11	172:19 179:13 180:8,14 joseph 2:11 joseph.gribbin 2:14 journal 12:18 24:3 76:20 78:2 80:22 182:21,23 judge 6:2 judgment 175:8,8 july 164:21,21 k k 1:12 4:1,4 5:1 6:1 7:1 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 36:1 37:1 38:1 39:1 40:1 41:1 42:1 43:1 44:1 45:1 46:1,16 47:1 48:1 49:1 50:1 51:1 52:1 53:1 54:1 55:1 56:1 57:1 58:1 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:1 69:1 70:1 71:1 72:1 73:1 74:1 75:1 76:1,9 77:1 78:1 79:1 80:1 81:1 82:1 83:1 84:1 85:1 86:1 87:1 88:1 89:1 90:1	91:1 92:1 93:1 94:1 95:1 96:1 97:1 98:1 99:1 100:1 101:1 102:1 103:1 104:1 105:1 106:1 107:1 108:1 108:2 109:1 110:1 111:1 112:1 113:1 114:1 115:1 116:1 117:1 118:1 119:1 120:1 121:1 122:1 123:1 124:1 125:1 126:1 127:1 128:1 129:1 130:1 131:1 132:1 133:1 134:1 135:1 136:1 137:1 138:1 139:1 140:1 141:1 142:1 143:1 144:1 145:1 146:1 146:14 147:1 148:1 149:1 150:1 151:1 152:1 153:1 154:1 155:1 156:1 157:1 158:1 159:1 160:1 161:1 162:1 163:1 164:1 165:1 166:1 167:1,25 168:1 169:1 170:1 171:1 172:1 173:1 174:1 175:1 176:1 177:1,16 178:1 179:1 180:1 181:5 182:7 185:10 186:5,21 katherine 11:9 kathy 110:9,9,15 110:17,18 keep 13:19,21 23:4 82:20 117:25 kelvin 104:17,19 104:20,25 108:23
j				
j	2:3,11 james 1:3 3:17 jamie 169:11 joint 24:10 jokingly 109:18 joselson 2:3 3:22 3:22 5:18,22 8:7 8:14,23 17:10 18:2,25 19:22 20:25 21:16,25 22:11 23:18 25:10	131:24 132:8,18 135:8 136:16,18 137:2 138:19 139:6,23 143:14 143:21 145:17 146:3 147:4 149:19 150:17 151:5,16 154:21 156:12 157:15 160:23 162:9 164:6 170:11	177:1,16 178:1 179:1 180:1 181:5 182:7 185:10 186:5,21 katherine 11:9 kathy 110:9,9,15 110:17,18 keep 13:19,21 23:4 82:20 117:25 kelvin 104:17,19 104:20,25 108:23	

109:2,3,9 key 114:4 148:4 kilopascals 26:2 kim 3:13 kimberly 1:22 187:4,23 kind 87:4 94:21 138:22 148:22 149:7 kinds 69:15 82:17 124:21 156:24 176:4 kinetics 60:25 67:22 knapp 119:4,21 knapp's 119:8 121:18 135:3 knew 29:14,15,16 know 4:24 5:19 11:8,8 12:14 14:13 19:17 20:6 20:18 28:18,21 29:21 30:2,5 31:19,20,22 33:9 34:12 35:16 40:20 42:25 44:17 48:23 50:14 51:18 55:6 55:6 56:17 58:10 58:10,11 64:19 66:4 71:12 72:24 73:6 77:9 78:22 82:2 86:4 87:20 93:23 94:20 100:8 101:10 104:6,24 104:24 107:7,8,9 111:6 112:6,15,24 112:25 118:21 119:3 122:23 123:13,17 127:17 131:2 134:24 135:24 136:3	138:9,13 139:2,24 140:4,7,10,12,15 143:7,25 147:2 149:3 151:21 152:6,23 154:24 156:18 158:10,14 158:18,20 160:17 160:23 161:2 163:5,18,20 164:22 165:24,25 166:12,15,16,19 169:15 171:12,15 171:18,22 172:13 173:21 176:12 178:14,15 179:4 179:21 knowledge 33:23 79:15 121:6 154:23 155:12 krusic 56:13 57:9 59:10,12,25 60:5,9 60:14 62:3,6 67:16,19 68:2,6,13 68:18 69:5,16,22 70:2,5,8 73:7,9,13 73:16 74:11 88:15 123:3,8 127:8 182:18,19 krusic's 57:10 58:19 68:23 127:22,23	langrock 2:3 3:23 langrock.com 2:5 large 16:20 20:7 122:21 largely 161:9 lawyers 151:20 lazerte 88:3,12 90:11,12,14 183:7 leached 170:22 leads 155:12 157:3 leave 80:6 leaves 132:24 leaving 72:8 89:19 89:25 left 6:14 37:13 48:4 98:12 123:20 124:24 157:22 legal 2:17 186:1 legend 47:8 letter 98:16 letting 106:25 level 131:25 140:11 151:22 156:10 172:11 179:7 liberated 128:16 life 126:3,22 liked 94:10,14 124:21 likelihood 156:11 likewise 18:4 limit 61:4 139:16 limited 6:4 142:7 142:11,13 labeled 108:25 172:16 laboratory 30:15 91:3 lack 127:8 laid 146:25 lang 162:12	144:19 157:21 182:20 link 169:13,19 liquid 26:13,25 27:5 36:9 173:15 173:22 liquids 27:18 list 15:9 118:13 listed 13:2 15:14 19:4,25 20:10 84:8 90:11,14 116:22 118:12 135:11 170:23 listing 118:9 lists 120:15 literature 14:9 55:14 56:2 68:12 72:4,17 87:5 88:20 lithium 84:15,17 90:16 little 51:8 llp 2:3,8,12 ln 98:11 located 171:16 location 1:13 locations 178:18 178:20,24 179:2,5 179:25 log 98:13 logical 42:18 102:18 long 29:4,6 35:13 35:17,25 59:6 158:10 161:25 164:18 172:17 longer 149:18 look 8:5,17,20 9:6 28:22 36:20 43:12 44:13 47:20 53:5 55:13 56:10 59:12
		I I 88:4 labeled 108:25 172:16 laboratory 30:15 91:3 lack 127:8 laid 146:25 lang 162:12	

60:22 64:25 65:22 67:5 75:16 79:22 79:24 80:8 85:20 88:6,18 90:4 92:21 93:12 97:22 98:25 113:9 115:23 116:17 123:19 144:18 167:8 174:10 177:21 178:22,23 179:23 looked 42:25 50:6 50:11 55:11,15 64:23 73:7 116:22 117:14,16 123:25 126:20 151:8 152:15 179:7 looking 20:15 22:9 33:10 40:9 43:11 57:8 67:7,12 72:23 78:24 85:19 86:4 90:20,22,23 122:6 129:9 147:4 171:16,21 lose 69:11,11 70:23 loss 23:12 55:17 78:24 79:7 80:3,5 lot 14:4 63:11,13 66:24 81:10 86:19 122:7 141:9 lots 67:3,3 loud 124:7 low 23:5 141:12 lower 28:4 31:22 139:7 lunch 101:10 107:3,8,9,10,24 108:7 lyle 2:16	m m 184:2 machine 187:6 magnesium 84:10 84:18 magnitude 67:21 109:4 main 1:14 159:24 major 52:21 144:3 majority 31:12,17 making 94:17 98:5 manufacturing 128:6,21 130:21 132:5 177:2,4 mark 7:6 12:24 16:22 44:18,21 45:11,22 77:15,16 77:20,20,21 78:6 87:9 100:18,23 102:15 114:11 marked 8:2 13:5 16:24 45:25 59:20 59:23 76:4 78:9 87:13 92:25 93:3 103:5 113:20 114:8,16 115:24 120:17 168:9,13 182:3 183:4,11,15 marks 76:7 146:7 mass 29:15 79:7 125:7 170:17,18 171:3,4 match 114:3 material 16:15 19:10,14 22:15 23:6 47:14 51:16 59:3 69:10 70:18 81:10,14,19 82:10 82:14,18 83:15 89:7,9 112:19,24 113:2 118:13	120:21 121:2,18 125:5 129:10 132:22 136:20 139:13 142:2 143:24 144:7,8,24 145:5 147:10 149:14 168:10 170:22 172:17 183:18 materials 9:9 13:2 19:24 20:12 34:6 56:10 82:23 83:2 83:4,6,10,12,18,22 83:22,25 86:8,23 87:7 120:15 121:7 134:13 136:14 137:15,25 170:9 170:23 174:20 182:11 math 10:22,24 matter 3:3 61:3 81:5 94:17 107:8 141:10,18 142:4,5 173:5,23 matters 6:7 maximize 35:20 90:23 maximum 138:18 mean 15:2 29:17 30:15 33:9,25 35:16 40:10,10 48:22 49:11 51:9 58:6 72:6,23 81:12,20 82:3 88:19 91:22 100:8 109:22 115:4 121:17 126:18 135:10,14 139:3 141:21 144:2 146:24 151:19 154:3 156:16	158:21 163:4,5 166:11,18 170:15 172:15 173:4,12 173:14 174:9 176:9 180:4 meaning 109:18 means 34:11 136:20 138:16 meant 95:24 170:25 mears 12:17 measure 42:2 measured 60:15 60:18 98:14 measurements 98:6 138:22 measuring 60:19 98:4,6,7 mech 128:11 mechanism 20:17 20:23,24 21:3 22:8 30:22 35:7 37:20 38:18 39:23 40:3,15,22 41:4,13 41:20 42:11 44:6 48:23 49:20 53:8 57:13 61:21,24 73:8,20,22 90:19 90:22 91:17 128:11 144:9 149:23 152:5,8,12 153:5,7 154:13,14 154:16,24 156:2 156:19 157:2,24 158:2,7 medication 6:23 megabytes 16:23 melt 74:20 mention 37:22 84:16 159:18
---	--	--	---

mentioned 16:17 24:12,16,21 30:7 95:4,8 134:17 158:11 159:16 161:4 166:22 178:11 mentions 133:19 merits 8:12 9:25 95:9,17 182:8 merrimack 116:10 116:11 119:2 120:22 141:14 143:23 179:17 183:18 met 23:23 metal 80:6 90:17 90:18 metals 124:3 method 156:8 methodologies 143:8 middle 86:17 97:10 middlebury 2:4 mimics 47:23 mineola 186:2 minor 125:20 minus 22:21 30:24 31:9,13,24 32:17 34:13,23 36:5 37:9 103:20 minute 44:25 minutes 61:3 101:7 162:2 164:19 missed 65:8 missing 64:24 81:15 82:8 misstatement 22:2 mistake 109:14	mistakenly 8:24 mixtures 118:10 model 29:19,25 30:2 91:2 157:14 157:25 modeled 29:14 modeling 30:9 175:9 176:3,18 moderate 125:23 modern 82:12 modest 125:23 moiety 86:5 molecules 27:14 28:16 moment 28:2 59:14 63:24 174:16 monolayer 173:12 monotonically 125:23 monroe 187:3,18 187:25 monthly 136:3 morning 3:6 4:8,9 motion 89:20 move 23:3,4 26:14 26:20 59:3 127:20 moved 70:16 movement 27:14 28:16 moves 23:8 132:22 moving 27:18 79:2 148:4 149:9 msds 138:15,24 139:15,21 msdss 138:6,12 multi 51:6 153:14 153:20 157:13,25 multiple 43:15 115:2 179:25	mutually 63:19 n n 2:1 3:1 181:2 184:2,9 187:2 na4 36:25 name 3:12 14:6 76:23 78:3 161:3 181:3 186:4,5 nankai 24:8 nanograms 171:24 172:6 178:19 179:22 narrow 150:2 national 3:14 natural 98:13 nature 20:20 near 28:9 105:15 105:16 necessarily 19:12 78:22 88:19 105:3 105:3 necessary 6:10 need 29:21 30:2,5 30:14 65:15,19 77:8 78:11 81:16 86:23 152:23 173:13 needed 37:20 42:4 89:20 93:24 131:6 131:7 175:6 needs 75:21 negative 28:19,25 111:12,12 never 21:19 69:15 89:9 132:24 nevertheless 69:5 new 1:14 2:9,9 3:16 18:10 120:22 143:2 144:7 183:18 186:2 187:2,18,25	nh4cl 153:9 nice 124:18,19 126:12 127:2 nicely 146:25 nmr 126:18 nominally 139:7 non 21:9 nonprecise 26:13 nonverbally 92:11 noon 101:3 normal 27:6,6 normally 27:17 north 15:25 120:13 128:6 136:17,23 137:15 159:4 179:12 notary 185:17 186:25 187:24 note 76:18 108:24 121:20 noted 46:11 76:3 77:3 107:20 146:11 167:22 177:13 185:5 notes 77:10,15,21 78:6,7 100:5 183:6 number 3:19 20:8 23:25 65:4 76:8 111:24 146:8 158:20,23 numbers 20:7 83:12 114:15 138:8,9 numerator 103:19 108:19 o o 3:1 86:16,16 184:2,9 187:2 o'clock 46:7 107:24
---	--	---	--

oath	4:21	158:21 161:5	45:9 47:4 56:9	open	29:20 59:2
object	22:11 23:18	165:21	59:15 64:25 65:6		69:13 81:6
26:8 29:2	35:15	occasion	65:9,12,15,20 66:5	operating	136:23
59:18	60:11 66:9	140:4,21,25	67:14 69:9 72:8		170:8
99:25	105:13	occasionally	73:15 76:14,18	operations	171:14
106:22	113:7	occasions	77:8,18 78:17	opinion	20:9 23:15
117:7,21	122:19	occur	79:4,13 80:10		34:7 35:5 36:5,7
127:4,25	128:9	71:23,24 72:18	81:9,23 82:11		38:7,8 43:13
131:24	135:8	73:3,3 89:16,17,24	83:20 84:16 86:15		49:16 55:24 72:5
136:16,18	145:17	91:20 158:12	89:13 94:22 95:19		86:22 88:24 89:8
147:5	172:19	164:20	98:5 99:2,24		89:9 132:12
179:13		occurred	100:22 101:7,8,22		138:14,20,21
objecting	28:5	165:18	102:12,14 103:7		143:12 149:5,6,6
objection	17:10	occurring	103:14,16 105:2,8		168:21 175:21
18:2,25	19:22	78:20	105:16,25 106:14	opinions	6:4,9,10
20:25	21:16,25	occurs	106:25 107:12		16:10 17:16,24
25:18	26:17,24	40:22 41:4 73:17	110:2,19 111:24		18:6,10 19:8,17
29:8,13	31:14	84:7 91:9,25 92:2	113:6,9,16,25		39:17 51:25 52:18
33:8	34:9 37:24	octanoic	114:7,9,14 115:4,7		57:7 68:25 69:6
39:4	40:16 41:9	october	115:22,25 117:17		70:10 71:3 88:16
41:16,23	42:7	3:10 9:21 186:4	117:23 118:2,9		98:2 100:15
51:14	52:5,14	odd	120:3 121:4,20		105:23 106:21
70:12	71:4 73:5	odds	122:20 124:17		116:4 117:6,11
79:20	91:16 92:18	offered	127:16 130:2,5,13		133:11,14 143:2
96:8,21	99:7	offering	130:15 131:15		144:25 145:6
104:9	127:11	offhand	133:7 144:6 146:3		147:24 150:13
128:23	132:8,18	office	146:5,24 149:4		163:24 164:12
138:19	139:6,23	171:17,19	151:11 153:24		165:14,20 166:4
143:14,21	149:19	oh	156:16,18 159:24		166:15 168:20
150:17	151:16	77:22 86:14	162:13,18 163:9		174:7 176:12,14
154:21	156:12	130:13 175:13	166:17,21 167:12		176:21 180:5
164:6	170:11	179:19	167:16 169:10	opportunity	21:8
180:8		okay	172:3,4 174:3,21		76:15 77:4 80:14
objections	63:12	7:5 8:10,15 9:4,8	175:11 180:2,10		80:23 88:6 131:20
observed	125:10	10:12,13,22 11:5,7	180:13,16		131:22 150:22
125:18		12:23 14:16 15:10	old	opposed	105:11
observing	41:19	15:17 16:21,23	88:19 186:2	oral	1:11
obstruct	63:2	18:19 19:15 22:12	omissions	oranges	131:17
obtained	170:10	25:9 26:12 30:9	112:10	order	5:25,25 6:12
obviously	14:4,8	30:17 33:24 37:5	131:19 164:7		10:19,23 23:4
19:10	112:25	38:16 39:8,10	ones		37:21 51:22 60:24

67:10,22 69:10,11 70:17 72:8 109:4 124:11 128:3,19 129:3 130:19 131:14 132:4,23 139:13,18,19 140:2 149:10 165:25 175:9 ordered 67:13 orders 67:21 original 9:14 17:14,20,22 18:10 18:19,24 19:19 20:2,19 21:2,4,11 37:22 66:21 93:24 95:21 96:23 113:2 129:6,12 131:22 147:17 176:15 182:5 outlined 22:12 158:22 outset 26:5 159:15 159:19 overall 49:11 51:10 91:14,17,19 92:3,8,19 113:3 overpressure 29:3 overseas 24:21	64:25 71:21 73:25 74:6,17 83:14 89:15 94:23 96:13 97:9 101:19 103:7 111:22 114:22 115:11 123:7 129:20 130:3,12 133:19 144:18,21 152:25 157:15 181:3 182:25 183:16 184:3,10 186:6 pages 83:12 93:14 117:5,9 187:7 paper 14:9,9,10 33:6,10,19 38:19 41:13 44:13,19 45:12,13 50:9 51:12 52:12 59:8 64:23 65:13 66:12 67:16 69:20 72:4 72:17 74:17 76:20 77:12 79:10,13,16 80:16 81:9 82:3,9 83:9,9,11 86:23 88:15 90:5,12,14 91:2 96:6,10,17,23 97:18,22 98:4 99:13 104:21 106:4,6,7,13 108:24 123:3,18 123:25 126:10 127:24 142:8 151:15 152:2,24 153:13,18 154:22 156:3,7,9 157:5 161:11 166:24 167:3,9 168:13 174:4,7,10,15,16 175:12,18 176:24 182:15,18,19,20	papers 12:18 15:3 15:13,17 24:2,4,11 40:21 56:13,21,24 57:3,6,9 59:13,23 82:23 83:16 88:19 90:21 95:20 148:13 161:5 paragraph 111:25 123:21 124:5,14 124:24 parallel 124:21 parameters 125:12,15 175:9 parentheses 98:11 park 2:8 parseghian 162:11 part 92:19 100:20 113:3 140:13 141:23 165:24 174:9 175:6 particle 163:16 164:9 174:11,13 175:2 particles 34:16 35:10 141:6,12 particular 38:9 60:18 138:16 158:15 particularly 165:22 175:8 particulate 140:24 141:9,10,18 142:4 142:5,9 173:5,22 parties 187:14 partner 160:21 parts 169:17 party 6:5 pascal 98:21 pascals 25:24 28:23 99:6,10,16 108:12	pass 174:23 path 150:25 pathway 128:12 154:9 pause 8:11 peer 24:3 41:12 106:9,14 157:5,8 Pending 44:22 45:3 65:24 66:3 pennsylvania 2:13 pentafluoroprop... 84:7 people 72:23 79:23 83:13 104:24 150:9 151:21 161:4 percent 61:3 80:3 118:18,19 130:6 132:19 138:25 139:3,3,4,5 perfluoro 88:2,3 perfluorobutano... 43:2,15,18 44:10 90:9 91:5 perfluorohexane 60:20 61:2 perfluorooctana... 125:18 perfluorooctano... 22:16 31:12 43:5 74:19 118:14 perfluorooctanoic 76:24 86:6 perfluoropropane 91:6 performance 1:7 3:18,25 139:9 186:4 period 135:20,25 148:6
p			
p 2:1,1 3:1 98:12 p.m. 107:18,19 146:9,10 167:20 167:21 177:11,12 180:19 pa 98:12 page 15:10,14 18:15 19:4 20:10 36:22 38:15 39:14 46:22 47:2,21,25 48:3 50:23 54:12 55:22 60:22 62:3			

permit	136:11,11 141:12	148:18,21 150:11 150:22 152:9	49:1 50:1 51:1 52:1 53:1 54:1	168:1 169:1 170:1 171:1 172:1 173:1
person	5:11 149:2	159:3 168:23	55:1 56:1 57:1	174:1 175:1 176:1
personal	187:9	170:4,4 171:8,18	58:1 59:1 60:1	177:1,16 178:1
persons	1:4	171:25 172:6,18	61:1 62:1 63:1	179:1 180:1 181:5
pertinent	14:8	172:21,23 173:2,4	64:1 65:1 66:1	182:7 183:9
peter	2:17 3:12 119:4,8,21	173:6,19,25 177:25 178:6,6,8	67:1 68:1 69:1 70:1 71:1 72:1	phenomenon 155:13
pfo	22:20 30:24 31:9,13,24 32:17 34:12,23 36:5 37:9 130:6 148:17	178:20,24 179:4 182:12 pfos 169:2,4,5,7 178:11,14,21,24	73:1 74:1 75:1 76:1,9 77:1 78:1 79:1 80:1 81:1 82:1 83:1 84:1	philadelphia 2:13 philip 1:12 3:11 4:1,4 5:1 6:1 7:1 8:1 9:1 10:1 11:1
pfoa	12:4,7,12 13:4 15:21 16:4,6 16:10 21:7,14 22:22,25 24:13,18 24:22 30:25 31:2 31:5 32:3,4,14,14 32:25 33:12,13 34:7 37:13,14 38:25 39:24 40:4 40:15 41:4,15,22 42:15,22 49:16,18 50:3 54:6,10,19 55:3,18,21,25 56:4 56:7 57:15 58:23 59:5 61:20,25 62:8 64:24 66:10 69:6,12,25 70:5,9 70:21 71:2,8,16,23 72:18 73:2,22 79:18 89:16 92:16 97:20 126:9 128:4 128:8,10,13,16,20 128:22 129:3 130:7,20,22 131:14 132:5,7 137:20 138:2 140:18 141:15,23 142:19,23 143:8 143:13,19 148:9	179:5,11 ph 21:12 31:20,22 31:22 129:22 130:6 ph.d. 185:10 186:5 186:21 phase 26:14,21 27:15,18 28:17 36:9 47:17 48:11 53:18,20,23 79:2,3 91:12 141:8 152:10 172:9,9,10 173:4 phases 158:11 phd 1:12 3:11 4:1 4:4 5:1 6:1 7:1 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 36:1 37:1 38:1 39:1 40:1 41:1 42:1 43:1 44:1 45:1 46:1,16 47:1 48:1	88:1 89:1 90:1 91:1 92:1 93:1 94:1 95:1 96:1 97:1 98:1 99:1 100:1 101:1 102:1 103:1 104:1 105:1 106:1 107:1 108:1 108:2 109:1 110:1 111:1 112:1 113:1 114:1 115:1 116:1 117:1 118:1 119:1 120:1 121:1 122:1 123:1 124:1 125:1 126:1 127:1 128:1 129:1 130:1 131:1 132:1 133:1 134:1 135:1 136:1 137:1 138:1 139:1 140:1 141:1 142:1 143:1 144:1 145:1 146:1 146:14 147:1 148:1 149:1 150:1 151:1 152:1 153:1 154:1 155:1 156:1 157:1 158:1 159:1 160:1 161:1 162:1 163:1 164:1 165:1 166:1 167:1,25	12:1 13:1 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 36:1 37:1 38:1 39:1 40:1 41:1 42:1 43:1 44:1 45:1 46:1,16 47:1 48:1 49:1 50:1 51:1 52:1 53:1 54:1 55:1 56:1 57:1 58:1 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:1 69:1 70:1 71:1 72:1 73:1 74:1 75:1 76:1,9 77:1 78:1 79:1 80:1 81:1 82:1 83:1 84:1 85:1 86:1 87:1 88:1 89:1 90:1 91:1 92:1 93:1 94:1 95:1 96:1 97:1 98:1

99:1 100:1 101:1 102:1 103:1 104:1 105:1 106:1 107:1 108:1,2 109:1 110:1 111:1 112:1 113:1 114:1 115:1 116:1 117:1 118:1 119:1 120:1 121:1 122:1 123:1 124:1 125:1 126:1 127:1 128:1 129:1 130:1 131:1 132:1 133:1 134:1 135:1 136:1 137:1 138:1 139:1 140:1 141:1 142:1 143:1 144:1 145:1 146:1,14 147:1 148:1 149:1 150:1 151:1 152:1 153:1 154:1 155:1 156:1 157:1 158:1 159:1 160:1 161:1 162:1 163:1 164:1 165:1 166:1 167:1,25 168:1 169:1 170:1 171:1 172:1 173:1 174:1 175:1 176:1 177:1,16 178:1 179:1 180:1 181:5 182:7 183:9 185:10 186:5,21 phone 108:10 110:3 161:19,25 162:19 163:24 164:12,24 165:12 165:16,21 phrase 137:7 phs 31:15,20 32:4 physical 115:9 pile 13:21	pka 31:19 32:6 place 51:7 160:8 places 171:18,21 plaintiff 11:11 plaintiffs 1:5 2:2 3:23 6:3 15:23 110:22 160:19 162:16 169:20 plant 116:22 128:13,16 136:13 163:7 168:24 169:5,7 171:8,12 177:2,4 plants 160:3 plastics 1:7 3:19 3:25 plausible 42:12 154:8,25 plaza 1:13 3:16 pleasant 2:4 please 3:20 4:3 19:17 62:24 63:2 63:3,4,12 80:25 130:17 plug 104:23 110:24 plugged 109:13,13 plus 10:17,21 92:10 po 169:7 point 22:25 32:5 37:11 45:9 57:17 70:22 72:14 143:20,24 144:2 148:10,20 179:15 pointing 133:11 portion 114:5 portions 77:7 170:14 position 42:3	possibilities 158:23 possibility 129:22 132:15 possible 14:15 94:18 potassium 84:10 84:21 86:2 potential 28:16 32:9 89:11 116:11 116:12,25 133:23 134:10 159:3,14 169:4 potentially 30:11 44:12 pounds 116:24 134:7 power 25:24 precise 25:16 31:22 94:18 precisely 112:23 preparation 10:18 10:20 76:23 prepared 9:9 11:24 135:25 preparing 11:19 135:6 preposition 10:17 presence 89:19 124:2 present 2:15 51:16 154:13 presented 12:7 66:12 68:4 pressure 25:14,15 25:20,21,23 27:25 28:18 29:15 33:3 33:4,7,20 97:17,19 97:21,25 98:5,7,8 98:14,14 106:21	pressures 28:3,4 108:12 presumably 35:19 141:7 pretty 78:3 81:9 104:14 prevent 157:8 preview 87:23 previous 88:9 120:17 previously 6:9 19:11 94:3 123:21 124:5 150:12 168:9 169:3 183:11,15 primarily 11:17 34:11 35:9 90:23 144:4 163:5 print 82:14,21 prior 16:15 18:21 19:11,13 21:7 92:21 93:3 94:14 94:15 96:14,25 109:16 114:8 115:10 119:14 120:20 134:10,17 144:11,19 148:22 175:13 probability 40:5 132:14,16 probable 40:22 41:3,7 probably 132:13 problem 71:20 problems 176:4 proceed 89:21 proceeding 8:11 46:9,10 75:25 76:2 107:18,19 146:9,10 167:20 167:21 177:11,12
--	--	--	--

187:10 proceedings 3:3 proceeds 67:21 process 23:3 26:20 33:15 35:20 36:7 49:11 51:7,10 54:14 55:15 74:21 92:20 96:11 124:12 128:6,21 130:21 132:6 147:15 153:14 processed 15:21 processes 35:14 61:15 118:24 122:16,23 158:12 158:18,21 170:16 processing 15:20 23:16 69:2,7 70:11 146:20 produce 30:24 produced 82:25 100:11 187:8 product 60:19 90:24 125:21 139:9,11,13,19,20 140:3 149:9,11 158:15 products 122:24 professional 23:23 64:17 project 151:20 properties 43:7 56:10 76:24 proposal 52:8 propose 52:12 156:19 proposed 39:20 40:15 53:22 128:11 151:15 158:7	proposes 51:13 53:6 proton 30:24 38:16 42:19 51:21 148:16 149:24 150:10,21 proven 155:15 provide 20:18,18 24:25 37:4,21 49:23 51:22 68:11 71:12 73:8 96:2 127:2 131:25 139:13,15 150:8 150:25 154:5 163:21 175:10 provided 123:18 124:18,19,22 126:9,11 127:9 134:2,25 138:8 152:8 169:19 provides 37:5 41:24 49:17 97:16 124:15 128:12 149:23 152:4 170:15 providing 127:16 136:10 public 185:17 186:25 187:24 publications 163:5 publicly 144:12,23 publish 83:9 published 23:25 24:12 161:11 163:4 publisher 83:14 pui 24:5 pull 16:21 purpose 131:18 174:9	purposes 136:11 136:11 put 5:18,23 7:7 13:7 65:16 73:18 78:7 82:13,19 106:3 114:12 117:19 150:23 156:2 164:9 puts 22:14 pyrolyses 87:25 pyrolysis 67:20 q quality 139:11 140:3 quantification 118:16 quantify 31:16 35:22 36:2 54:9 132:15 177:25 quantitative 26:18 quantitatively 105:14 quantities 135:21 quantity 134:7 quartz 62:11,12 67:23 68:8 69:23 70:6,9,17 71:2,11 71:15 123:9 124:10 125:2 126:4,21 127:9,19 127:23 question 5:3 31:3 33:17,18 38:13 39:9,9 43:13 44:22 45:3 57:12 61:21 65:24 66:3 78:25 87:21 88:5 98:24 99:3 101:6 101:14 115:6 127:13 129:19 130:9 131:3,7	133:9 137:5 139:8 147:8 150:2,5,14 160:24 161:18 162:5 169:3 171:2 173:13 174:6 184:10 questioned 112:9 124:2 questioning 26:9 28:6 154:4 questions 4:23 6:17 63:14,18 67:10 75:17 80:21 81:22 82:6 84:3 93:13,23 101:19 107:2 143:22 164:8 174:22 175:4 177:20 180:12,15 184:13 quick 64:24 85:20 145:25 146:16 quickly 55:4 76:17 77:4 quiet 64:5,8,14,16 quite 40:11 86:4 111:6 quote 51:4 54:14 60:23 89:15 95:3 112:4,11 153:7 r r 2:1 3:1 88:4 184:2,9 187:2 raised 163:3,9 169:3 175:5 ran 106:20 122:8 range 10:23 11:3 61:4 75:4 124:25 127:18 138:6,15 138:18 139:8,20 140:13,14
--	---	--	--

ranges 138:12	86:21 89:8 98:3	147:19,24 149:17	reduce 139:10
rapid 91:23 148:7	113:3 116:12	150:16 152:2	reexamine 6:6
rapidly 74:19	130:7,7,25 144:15	158:25 159:6	refer 10:11 54:13
127:19	150:3 151:3	160:13 164:5,10	79:12 117:23
rate 29:22 30:4,17	161:11 162:15	165:3,6,15,17	reference 19:12
54:18 55:5,17	163:21	168:22 174:20	44:14 66:14 77:14
56:15 60:15 91:11	rearrange 131:20	175:10,17,21	85:23 88:12
91:14,19 92:3,7,8	150:21	176:8,16 182:10	157:16
125:10,13	rearrangement	recall 14:16,19	referenced 15:3
rates 54:5,10	48:25 148:14	15:18 95:6 140:21	19:11 20:8 147:19
67:22 68:7	149:7	140:24	references 15:9
raw 120:21 121:2	rearranges 132:23	received 34:5	19:5,19,20
136:20 183:18	reason 42:9 61:12	recessed 46:9	referred 36:13
reached 156:10	67:8 137:11 178:5	75:25 107:18	45:19 88:8 109:17
reaction 51:6 72:8	186:6	146:9 167:20	121:24
91:12,15,20,25	reasonable 40:2,7	177:11	referring 20:24
92:3	40:14 41:24 42:8	recognized 109:14	75:4 101:19 113:5
reactions 91:14,18	157:3	116:8	117:24 120:20
reactive 70:17	reasonably 6:10	recollection 99:18	133:2 135:17
124:13	11:12 156:22	reconstruction	148:24
read 19:11 48:5	reasons 17:23	53:21	refers 41:17 47:8
50:21 61:5 63:24	rebuttal 6:3,6 10:7	reconvened 46:10	48:5,20 53:11,14
64:6,9,15,24 67:24	10:12 11:18,21	76:2 107:19	53:17 79:10
72:2 74:22 75:13	12:3,14,16,17,18	146:10 167:21	121:21
85:20 96:6,16	14:2,14,24 15:6,7	177:12	reflected 138:6,12
99:9 113:5 124:7	15:15 16:13 17:15	record 3:7,21 5:19	regard 26:13
124:8 129:19,25	17:23 18:9,13	5:23 9:12,18,24	42:24 66:11
130:2,16 147:7,10	19:4,8,18,20 20:3	10:6 46:8,13,15	117:15 164:8
153:10 158:4	20:11 21:6 22:10	60:4,8 75:21,24	169:3
165:21 168:6	22:13 34:22 36:20	76:7,18 77:24	reject 57:10 127:7
169:15 170:15	38:15 41:14 45:16	81:3,5 87:19,24	127:22 128:2
172:24 185:3	45:18 46:22 47:6	101:18 102:9,10	rejected 151:15
reading 14:5 15:4	54:12 55:20 62:4	107:17,22,23	rejects 51:13 52:8
15:7 51:3 75:19	63:21 66:17 67:15	146:7,13 167:8,19	68:12,18
75:22 154:22	68:14 71:21 89:14	167:24 168:3,6	relate 13:3 14:24
157:18	97:9 111:16,21	177:8,10,15	24:13,18,22 84:3
ready 44:17 46:18	116:5 117:6	180:18 185:6	87:6
76:11 164:22	119:18 128:12	187:10	related 10:17 16:4
reality 139:3,4,4	133:4,12,13,15	recorded 1:11	24:13 83:2 86:24
really 55:15 73:20	142:15 144:7,17	recrystallized	93:13 134:21
81:14 84:3 86:20	145:6,10 146:18	74:13	135:6 142:18

[related - reviewed]

Page 27

156:7 164:25	152:3 153:13	91:7 92:17 95:10	requests 25:11 187:12
166:25 180:6	163:23 164:11	95:16,17,21 97:9	required 140:3
relates 39:17	168:19 174:7	99:19 101:19	reread 62:14
176:25	175:18,21,24	103:15 104:8,25	rereading 14:8,16 14:19
relating 12:11	176:11,13,17,18	105:12 111:2,5,11	research 24:6,10
16:10 17:5 55:18	176:21	111:15,16,21	researched 54:5
60:13 97:4,5	remain 59:5	112:10 116:5	researcher 52:7 52:11
124:15 127:8	remember 4:10	117:6,12,16,20	residual 80:5 90:18
142:22 158:11	24:2 26:2 65:17	119:18 128:12,14	residue 80:6 168:10
182:12,14	96:17 123:7,10	129:7 131:23	respect 52:9 165:23
relative 23:5 28:15	134:15 160:21	133:4,12,13,16	respectful 63:11 63:19 64:17
29:16 54:5 91:21	161:2,22	142:15 144:17,24	respectfully 161:15
171:14 187:14	remembered	145:5,6,10,15,16	respond 25:13 166:2
relatively 44:22	175:15	146:18,25 147:12	response 126:19
82:21 122:21	render 127:3,5	147:16,20 149:17	results 61:10,13 126:18
127:19 132:22	renders 127:6	150:6,16 152:2	resumes 46:16 76:9 108:2 146:14 167:25 177:16
141:25	reorganization	158:25 159:7	review 62:16,21 62:23 64:4,19
relaxed 53:14	148:8	160:13 164:5,10	65:11,19 66:3,7,20
release 30:25	rephrase 39:8	164:23 165:3,6,17	66:24 67:4 76:15
57:20 129:9 131:2	replicated 50:7	165:22 170:18	represent 4:12
148:21 149:24	report 8:13 9:15	171:4 175:18,22	represented 77:4,5 80:14,24
released 58:23	9:25 10:7,12	176:8,16,16 182:5	116:20
relevance 81:21	11:22 12:3,14,15	182:8,10,14	represents 47:12 47:14,17 51:10
relevant 77:7	12:16,17,17,18	reported 1:22 35:3	94:7 119:6,8,12,16
81:14 161:7	14:2,5,6,7,15,25	61:9 108:12 187:6	119:24 133:10
169:18	15:6,7,15 16:12,14	reporter 3:13 4:2	144:23 145:4,8,22
reliable 39:17	16:17,20 17:5,9,14	5:14 6:19 147:10	175:11 187:12
61:11,14 71:3,11	17:15,22,23 18:9	187:24	reviewed 14:23
106:7 123:13,16	18:11,13,20,24	reports 6:5,11	15:2,13 20:6,7
relied 19:8 20:6	19:4,9,12,18,19,20	17:20 18:4 38:17	24:3 41:12 52:20
54:20 83:17	20:2,3,11 21:2,4,6	55:16 62:6,8 83:2	
100:14 176:2	21:11 22:10 34:22	represent 4:12	
rely 19:25 51:11	35:4 36:16,20,22	represented	
106:5 149:16,17	37:22 38:15 41:14	77:4,5 80:14,24	
149:18 150:5	41:17 45:16,18	116:20	
relying 16:9 17:8	46:22 47:6,11	represents 47:12	86:23 87:20 88:24
19:18 35:5 45:15	54:12,24 55:20	47:14,17 51:10	94:7 119:6,8,12,16
51:24 52:13 56:6	62:4,10 63:21,21	request 25:3,5	119:24 133:10
57:6 68:3 88:15	66:18,21 67:15	83:5 184:3	144:23 145:4,8,22
103:20 118:8	68:13,14 71:21	requested 44:23	175:11 187:12
150:13,15,20	82:24 83:7 89:14	147:10	reviewed 14:23

[reviewed - second]

Page 28

66:20 79:13 80:18 83:17 88:7 94:3 106:14 117:18 119:13,13,14,21 133:3 142:15,18 142:21 143:7,11 144:12 145:14 157:5 reviewers 156:5 157:8 reviewing 63:8 66:15 revisit 67:10 rewriting 14:14 right 4:16 5:12 6:21 9:13,15,21 10:3,24 11:22 13:19 14:7 15:10 15:15 19:5 30:8 30:10,19 32:19,21 36:14,23 37:23 38:21 39:21 40:24 40:25 44:25 45:16 45:20,21 46:14 48:6,12,18 50:19 51:25 52:4 53:12 53:15,18,20,23 54:3,16 55:21 59:25 60:5,9,16,20 62:4,6,15 65:7 66:15,18 67:2,3,16 68:3,8,8 72:2 73:14 74:5 76:21 76:25 79:11 83:16 84:12,19,22,25 85:4,11 86:10 88:21,22,23 89:2,3 89:5 92:7,12 94:3 95:5 97:6,13 98:23 99:9,20 100:24 101:23	102:2,6,21 103:11 103:15,15,17,21 103:22,25 104:3 104:14,22,23 105:5 106:6,15,16 106:18 108:20 109:11,12 110:23 110:24 111:7,7,10 111:17 112:12 114:4,18,22 115:12,17,20 117:17 118:9 120:14,19 121:21 121:24 123:10,20 125:2 126:23,24 127:14 133:4 134:12,21,22,23 134:24 138:17 140:5,12,14 141:4 145:2 147:17,20 147:25 151:11 152:3,16 153:10 154:11 155:24 157:6 162:16,17 163:10 167:17 172:21 175:17 176:20 177:2,23 178:12 179:17 road 186:2 robust 88:20 89:3 rochester 1:14 3:16 187:17 roe 59:12 60:14 68:2,6,13,18 69:5 69:16,22 70:2,5 73:16 74:11 88:15 182:18,19 roe's 68:23 70:8 room 54:15 roughly 11:11 92:5 164:20	rule 161:15 rules 4:19 run 98:19 123:23 136:14 137:13,15 runs 147:25 148:2 s s 2:1 3:1 47:9,11 48:6 53:14 181:2 181:2 182:2 183:2 184:2,2,9,9 186:6 saint 1:7 3:18,25 4:13 31:11 34:4,5 35:14 61:14 68:25 69:7 70:10 112:24 116:21 120:21 121:2,7,11,12 128:5 137:10 138:8 142:19 145:9,16 146:19 158:12,19 183:18 186:4 sake 133:7 salt 39:3 43:2 67:20 salts 42:23 50:8 76:24 84:8 87:6 88:2 90:9,11,14 153:8 sample 74:13 167:9 171:24 178:6 samples 166:25 169:6 171:16,18 178:6 sampling 17:5 145:14 168:11 182:14 satisfy 49:19 saw 88:17 saying 109:21 115:5 136:19	155:4 176:19 says 8:23 33:19 51:4 60:23 67:25 72:18 74:12 78:21 112:4 118:17 121:2 125:23 134:25 137:10 152:11 153:4,7,13 157:13 172:4,5 179:15 scan 178:17 schematic 37:5 150:9 schematics 171:11 179:7 scheme 39:20 47:21,22,22 48:5 48:14,18,21 49:15 49:20 50:3,10,13 50:17,18 51:7,12 51:13,13 52:3,3,8 52:12,17,18 53:2,5 148:19,23 149:16 149:21,22 150:3,4 150:5,8,13,15,24 151:14 science 41:24 154:3 168:14 scientific 40:3,8,14 87:10 156:8 scientist 155:8,14 155:25 156:9 scientists 153:22 155:4 search 21:5 22:9 87:5 96:19 searched 55:14 searches 122:8 second 8:5,9 37:9 53:23 60:23 91:23 92:3,9,10 110:11
--	---	--	--

[second - sorry]

Page 29

111:25	separation 148:17	shows 78:20 79:5	176:6
seconds 126:6,22	150:10 165:25	79:6 173:24	skimmed 169:16
section 50:25	september 5:25	sic 45:23 145:21	skip 39:9
73:25 74:8 168:10	9:15 165:9	side 98:12,15	slow 54:14,15
see 23:20 33:16,17	sequence 77:19	108:20 160:19	62:12
38:19 48:3,20	series 80:7 91:13	sided 117:5	slower 91:19
49:24 50:6,25	91:18	siegel 12:18 159:5	slowest 91:13
51:3 52:20 58:18	services 3:14	165:9	small 12:15 16:19
60:23 64:22 65:4	ses 85:8	siegel's 159:9	36:12 141:25
68:21 70:24 73:25	set 25:16 28:9	165:22	smaller 43:6
74:9,12,14,16 77:7	41:14 79:18	signature 187:23	sodium 84:23
77:10 79:22 81:21	162:20	significant 141:12	123:24
81:23 82:5,22	sets 59:22 174:18	significantly 85:19	solely 137:6
83:13,25 84:4	shake 6:17,18	silicon 141:7	solid 22:22 26:14
85:8,8,9,23,25	sheet 120:25 135:3	siloxanes 141:7	26:20,25 27:15
96:13 98:11 99:14	185:5 186:1	similar 51:10	34:24 35:8,25
103:7 114:3 115:3	shin 12:19 14:9,11	165:6	36:4 37:7 47:12
115:6,8,8,24 117:2	14:21 159:25	similarly 1:4	48:6 49:12 79:2
121:4,4 122:11	160:16 161:4,20	87:19	131:19 132:10,14
124:4,14 126:12	162:8,19,22 163:2	simple 150:8	173:8,11
128:13 133:9	163:10,13,24	simpler 82:3	solids 131:19,21
146:17 147:3,8	166:24 167:3,9	simplified 26:22	solution 21:12,18
153:4,12,15 154:9	168:13 174:4,7,10	simply 29:24	21:19,21,23 22:4,7
155:11 161:6	174:16 175:11,14	134:25 138:8	31:7,10 32:3,11,14
163:7 174:21	175:17,21,24,25	sinter 74:21	32:15,21 34:13,23
178:18,20,23	176:11,13,17,21	sintering 172:9	34:25 35:2,13
seeing 50:5	176:24	sir 113:12	36:6 128:7,21,24
seemingly 169:17	short 82:21 126:20	siren 174:22	129:2 130:21
seen 55:16 72:4	shorthand 187:6	sit 22:5 54:9 71:14	131:2,13,15 132:6
87:22 88:11	show 55:8,17	72:25 89:24 95:13	132:9,11
124:21 161:5	66:10 69:9 70:19	105:2,8 131:11	solutions 31:11,23
send 24:25	71:7 80:3 84:6	138:25 166:6,11	34:11 186:1
sense 53:2 119:20	90:8 91:4 126:13	site 12:16 16:12	somebody 110:3
sensitive 124:13	126:19,21 141:17	128:14 161:8	163:4
sentence 60:23	144:14 170:4,7	182:14	somewhat 43:7
74:17 75:5 111:22	showed 121:23	sitting 166:11	127:6 149:21
111:24,25 113:5	showing 40:18	situated 1:4	sooner 101:10
124:4,8 157:13,18	48:24 49:4 56:13	six 165:17	sorry 11:2 15:4
157:20,23	179:10	size 55:7,9 163:16	17:12,20 21:10
separate 13:22	shown 51:7 126:17	164:9 169:13	35:17 38:2 39:3
93:18 150:22		174:11,13 175:2	48:2 69:25 73:14

[sorry - subscribed]

Page 30

85:6 86:14 88:2 90:13 93:17 106:11,12 109:9 115:4 117:25 120:6,8 123:14 129:24 130:12 134:23 136:18,25 137:3 145:19,21 179:19 sound 109:11 sounds 119:21 source 130:9 178:15,17 179:4 179:10 sources 159:3,14 165:23 169:4 south 2:4 space 13:8 37:15 speaking 58:8 specialist 2:17 species 48:8,11 80:6 specific 33:18 114:5 145:16 158:20 169:24 170:20 specifically 14:2 33:17 67:4 145:9 161:13 172:16 179:6 specificity 96:24 speculate 43:10 153:13,22 155:5,9 speculating 153:18 155:6,8 157:10 speculation 155:3 speed 35:20,22 45:10 spent 10:14 11:15 14:4	sperry 2:3 3:23 spoken 4:17 spreadsheet 100:6 100:9,11,14 109:14 112:2,4,9 114:5,21 115:15 116:2,9,10,21,23 118:17 122:22 133:18,22 134:3,5 134:25 135:7,16 135:17,19 137:18 138:10 140:16 182:17 183:11 stable 28:10,24 stack 45:7 59:4 142:2,18,22 143:7 143:13,18,19,23 145:8,15,16 172:3 172:8,16,18,22,24 stack25.0 172:4 stacks 128:15,17 170:22 172:13 173:7,20,25 174:2 178:2,9 stage 51:6 153:14 153:20 157:13,25 standard 25:14,15 25:15,21 72:7 125:8 start 80:16 85:17 85:18 140:7 started 56:11 starting 36:25 125:5 starts 168:9 state 22:3 54:13 73:16 87:18,21 155:21 187:2,18 stated 6:11 75:4 127:23 129:8	statement 17:16 20:19 61:7 68:13 68:18 123:8,15 statements 185:7 states 1:2 67:19 stating 157:9 statistically 156:23 stay 36:6 81:5 step 33:14 48:24 49:4,7,13 91:12,13 91:23 155:11 steps 48:19 sticker 78:7 114:12 sticky 173:2 stop 63:12 straightforwardly 143:4 strange 65:12 stream 149:13 street 1:14 2:4,13 strike 11:2 17:21 29:4 38:12 39:6,8 39:11 48:2 50:17 69:4 70:3,4 75:8 90:13 119:7 120:4 123:14 143:3 144:13 145:13 148:11 158:24 159:17 165:13 171:6 180:10 structure 53:12 stuck 173:10 studied 125:2 studies 19:7 80:7 88:10 161:10 study 70:15 78:2 styled 187:7 subject 90:7 158:16	sublime 30:20 31:5,7,25 32:3,15 sublimation 18:16 23:7 26:19,20,23 27:8,13,14,19,22 28:11 30:4,13,18 31:2 32:10 33:11 33:13,14 37:23 38:18 39:21 41:13 42:11,13,15,24 49:11,12,16,18,24 50:17 51:6,23 52:9 53:8,24 54:14,19 61:24 79:9 92:15 95:5 95:15,22 96:7 148:8 149:8 153:4 153:7 154:9 157:13,24,25 158:2,7 sublime 22:22 29:7 37:14 54:25 55:2,4 69:13 131:20,22 149:9 149:14 sublimed 23:9 sublimes 40:19 132:24 submit 25:11,12 83:9 submitted 9:20 10:2 16:14 95:16 95:17 105:12 131:4 133:3 studied 125:2 142:15 147:16 160:14 164:4 165:2,5 subscribe 185:6 subscribed 185:12 186:22
---	--	--	---

subsequent 33:13 57:16 148:8	31:4 32:12 35:21 43:6 44:18 57:23	systematic 87:5 t	talking 6:14 34:2 67:16 85:22 86:17 110:3,4,13 130:25 148:15 155:3 166:13
substance 26:16	59:16 66:13 69:19	t 88:4 98:16,18 103:21,21 111:12 111:13 181:2 182:2 183:2 184:2 184:2,9,9 187:2,2	target 151:23
substantially 22:25 23:4 53:3	75:15 81:8,13,24 95:23 101:16	tab 113:10 114:4 182:17	tasks 165:25
subtotals 116:18	106:18 111:8,10	table 78:19 79:18 85:23 90:8 121:2 121:12,21 137:7	team 112:18,20 113:3,4
sufficient 139:8,12 139:20 140:2	112:14,23 120:10 122:3 130:17	tabs 115:3,16,19 115:24	tear 156:5
sufficiently 129:8	144:15 149:10	take 5:14 6:19 8:17,20 13:18	technology 82:12 168:14
suggest 51:5 61:23 157:2 167:7 168:23	151:21,22 157:17 167:14 170:15	29:6 35:13,25	teflon 34:16 35:10 139:10
suggested 39:24 154:12	173:21 174:16,24 175:14	surfactant 34:16 34:18,19 112:6	teleconference 14:11 164:3 175:14
suggests 51:19	35:10,11,11 37:12	36:19 44:13,15 45:23 47:20 53:5	teleconferences 14:12 159:16,18 159:22 165:7
sullivan 1:3 3:18 186:4	47:15 53:15,21,24 124:13 168:11	59:12 60:22 62:18 64:25 65:18 74:3	telephone 160:7
sum 134:13	surfactants 116:23 134:13 140:4	75:16 79:24 80:8 80:23 87:19 90:4	tell 64:7,16 74:4 77:11 105:8,17 111:22 122:20
summary 147:13	surfing 122:11	92:8,21 105:21 107:9 110:2 134:2	125:4,10,14,17,20 125:24 126:3 171:7 172:7,17 176:19
super 151:3	surprise 104:11	142:25 143:11	telling 64:12
supervision 187:9	surprising 157:11	144:18 145:25	tells 124:25 125:6 125:22
supplemental 81:18 82:10,14,22 82:25 83:3,6,10,12 83:18,21,25	sutcliffe 75:13 76:19 78:19 182:20	149:14 156:18 160:7 167:8,15 177:8,21 179:23	temperature 25:15,20,21 29:7 54:15,16,22 58:24
support 9:20 22:9 38:11,14 39:13 49:17,24 50:12 68:11 139:17,22 144:17 148:7,11 156:8 157:2 166:4 166:15	swear 4:3	taken 6:25 97:17 183:6	59:6 61:4 72:9 75:3 78:21,25 97:17 98:17
supported 66:12 96:23	swiped 170:20	takes 10:21 51:7 79:16	104:16 124:25 125:24 127:12,17
supporting 81:10 133:14 165:20	sworn 4:5 185:12 186:22 187:5	talk 5:7 27:25 49:10,10 144:15	148:7 149:8
supportive 82:20	synthesis 90:21	147:22 148:13 161:6 166:23 167:11	
supports 23:17 59:9 72:5 132:21	system 28:14 29:20 34:20 59:3 59:4 69:13 70:18	talked 110:17 143:16,18	
sure 4:24 6:12 11:12 13:12 25:7	70:20 71:19 72:7 141:14		

temperatures	94:15 97:5 115:15 22:24 23:9 56:3 56:14 61:19 62:2 69:15 70:20 71:9 74:20 84:12 85:17 85:19 89:10 104:25 132:23,25 146:19,22 147:2 147:23 170:8	things 12:14 47:8 67:4 93:22 94:9 94:17 113:9 131:5 141:22 154:4 163:15 166:20 171:14 think 6:14 8:22 11:14 12:20,22 13:9 19:2,15 20:8 23:13 26:4 29:6 32:12,13 35:10 36:13 43:4,8 45:2 45:4 58:12,15,17 58:17 61:19 62:8 65:23 66:2 73:12 77:6,6 80:18 81:16 82:5 84:5 94:16 99:13 100:19 106:2,2 107:7 109:16 113:18 114:2 115:5 117:13,13 117:15,18,22 123:12 129:5 130:8 132:13,19 142:3 151:7 156:3 159:17 160:16,18 161:15,24 166:21 167:6 170:24 174:15 176:7 180:2 thinking 57:14 166:12 third 5:24 157:23 thoroughly 50:21 91:5 149:11 169:16 thought 44:23 79:23 92:19 131:6 151:25 154:14	thoughts 101:4 thousandfold 105:17 three 48:19 53:9 53:21 117:5,9 174:18 thursday 3:7 tianjin 24:9 tie 127:20 time 1:18 3:20 4:15 5:15 6:22 10:14,18 11:5,14 11:18 14:3,4 46:7 46:12 58:7,13,16 59:17 62:18,22 64:3,18 65:10,19 66:24 74:4 75:23 76:6 77:5,6,8,8 78:25 81:13 87:20 94:19 107:11,14 107:16,21 114:22 126:12,20,20 127:2 133:3 135:20,24,25 143:22 145:2 146:6,12 158:12 162:20 165:2,2 167:18,23 168:22 169:21 170:13 177:9,14 178:2 180:17,19 times 25:23 titled 3:3 183:18 today 3:7,9 4:24 10:12,21 11:19 22:5 23:14 54:9 67:2,16 71:14 72:25 79:14 87:3 89:24 95:13 105:2 105:8 110:13 115:12 131:11
---------------------	---	---	---

139:2 166:6,11 167:10 168:6 177:23 today's 12:11 13:3 told 28:23 108:5 163:24 165:15 175:24 top 71:22 total 116:17,24 tower 129:4 130:20 132:5 149:10,15 towers 128:4,20 131:14 136:23 137:13 140:18,22 140:25 141:18 142:6,10 172:2 track 135:2 transcript 92:22 93:4,4 94:3 119:10 129:12 183:8 185:3,6 187:12 transcription 187:8 transcripts 119:24 transfer 22:20 30:23 37:8 38:16 42:19,19 51:22 90:17 148:16 149:24 150:10 transferring 57:19 transformation 27:2 transition 91:13 124:3 tried 94:2,9 95:24 122:6 131:5 tries 155:8,9,20 trouble 65:20,21	true 31:15 95:14 132:3 155:22 187:9 try 5:6,6,7 6:16 13:11,19,21 14:14 33:16 101:5 118:2 137:13 150:9 167:10 174:17 175:6 trying 20:16,22 21:5 40:10 51:16 52:25 64:9,12 73:8 96:2 101:15 135:2 150:25 151:20 160:3 167:6 176:5,10 tsi 24:5 tsinghua 24:9 tuesday 3:2,9 turn 23:20 47:25 48:3 50:23 152:18 159:23 174:3 twisting 156:15 two 33:14 40:20 44:25 59:22 91:18 113:9 114:15 168:5 type 124:13 typed 110:25 111:4 types 165:6 typo 18:15 45:21 103:12 typos 108:14	90:6 92:24 94:24 95:2 96:15 110:5 112:3 114:10 123:4,22 124:6 133:20 153:3,6 157:19 158:5 174:5 177:24 ultimately 34:23 um 85:8,8,9 unable 23:19 unclear 135:25 undergo 44:3 undergoes 44:5 underlying 53:4 57:13 61:21,24 151:2 155:13 underneath 47:7 157:24 understand 4:21 4:23 17:7 19:15 32:12 34:10,14,18 58:18 68:21 69:18 70:24 108:4 115:5 117:2 118:4 149:22 150:9 160:2 162:4,6 176:10 understanding 11:10 17:4 19:16 34:21 38:6 65:21 72:7 85:13 86:20 93:21 94:2 99:16 115:14 117:17 121:7 123:12 136:5,7,10 155:12 162:7,14 166:7 173:17 179:8 understood 5:3 13:25 51:17 95:24 127:15 165:19,19 170:24	unit 135:24 united 1:2 universities 24:21 university 24:8,9 unreliable 127:3,5 updated 24:24 25:3,5 184:5 updates 23:22 upper 61:4 127:18 use 6:5 27:10 69:9 70:8 71:15 77:16 83:14 104:16 112:8 116:2 120:21 136:6,20 136:24 148:19,23 159:12 169:7 183:18 useful 26:4 uses 41:18 50:4 utilize 117:3,9 utilized 118:24 128:5 133:21 143:8 158:19 170:9
			v
			v 1:6 values 91:21 134:2 vapor 27:6,15,18 27:25 28:3,4,17,18 29:21 33:2,4,7,20 36:11 49:12 97:16 97:19,21,25 98:5,7 98:8 106:20 108:12 vaporization 27:3 27:4,7 32:9 vaporize 26:16 vapors 27:2 variation 158:14 variety 24:7

various 171:21	44:6 54:6,10 57:15	we've 11:7 14:12 58:12,15 90:4 volatilize 21:7 32:19,20 37:12	75:18 92:11 99:2 100:20,25 101:12 101:16,21,24 102:4 107:4,12
varying 171:22		volatilized 22:21	110:7,10 157:19
vast 31:12,16		volume 141:25	157:21 160:25
ventilation 59:4 69:14	vs 186:4	weak 32:9	161:16,18 167:16
veritext 3:14 186:1		web 20:14	180:13,16 187:11
vermont 1:2 2:4 121:15 122:16,17 169:12		week 96:18	187:17
versed 163:20	w	weekend 11:18 62:14	witnesses 6:4,6
versus 3:18 54:10	w 181:2	weekly 136:4	won 24:17
vibration 72:14	wait 5:10 174:22	weeks 119:15 165:17	wool 2:3 3:23
vibrational 72:10	walk 98:9 100:3	weight 78:24 134:8	word 95:23 123:21 124:5
video 1:11 2:17 81:17	wall 141:23 171:16,16 172:23	welcome 87:16 93:10 103:3	words 156:15 174:11
videographer 3:6 4:2 46:7,12 75:23 76:6 102:11 107:16,21 146:6 146:12 167:18,23 177:9,14 180:17	walls 170:21 173:10	went 4:19 59:17 109:6,7,9 116:7 141:14 163:16 170:20	work 11:21 13:16 24:7,20,22 30:23 40:18 82:6 154:4 166:3,8,13,14
videos 82:8,17	want 5:18,23 39:6 43:10 81:2 83:14 98:25 101:10 113:25 144:14,15 145:23 148:19,23 149:3 151:5 166:19	wet 134:7	175:15
videotaped 3:10	wanted 30:2 161:6 163:7	whitlock 169:11 169:20	worked 11:21 13:17
view 59:9 121:14 126:25 127:3 128:25 137:6 139:17 145:12 156:8	wants 107:10	wide 114:5	working 10:14 11:15 13:25 58:12
viewed 115:16	washington 161:10 163:6 174:12	wind 36:11	58:15 96:12 163:6 174:17
views 145:9	water 28:24 31:21 36:6,10	wipe 12:16 16:13 17:5 128:14 132:21 133:2,10 141:24 142:12,14 166:25 167:9 168:11 169:6	works 161:10 163:6 174:13
viscous 173:15	way 22:3 24:14,18 24:22 35:23 36:2 36:23 51:17 52:17 72:15 98:4 105:18 117:10 127:14	170:19,22 171:16 171:24 177:22 178:19 182:14	wp03 172:4
visit 15:23	132:16 137:12	withdraw 39:9	wrap 180:2
visited 15:20	138:21,24 142:4	witness 4:3,5 8:10 8:19 9:2 13:7,12	write 47:11
vitae 25:6 184:5	154:19 156:23,23	13:15,21 21:10	writing 14:14 25:12 77:11
volatile 28:3,10,24 32:17,23,25	167:7 168:20	25:7 34:3 45:6,8 46:4 63:5,7 65:12	written 12:4 16:13
volatility 26:6,6 26:12	169:25 171:2	65:20,25 66:5	wrong 21:23 74:2
volatilization 21:18 22:8 26:22	173:24 176:9,19		wrote 17:9 99:19
			x
			x 108:25 182:2 183:2

[yeah - zone]

Page 35

y	z
yeah 8:22,24 9:3,7 12:13 13:14,15,23 15:2 30:14 45:8 48:22 52:6 57:12 58:9 59:15 62:12 65:6,8,21,21 66:10 67:9 69:21 76:17 78:16 86:2,16 88:17 93:20 98:13 101:21 102:4,8 103:9 107:4 108:8 109:6 110:4,21 120:7,7 121:13 125:6,13 129:13 129:22 130:5 147:13 151:10 152:4 159:10 160:25 163:3,11 165:8 173:3 174:2 178:25 179:20	z 36:14 88:4 zee 85:9 zero 25:22 28:9 zhu 12:19 14:9,19 18:16 22:19 30:23 36:13 38:17,20 39:13,16,20,24 40:15 41:14,17,20 42:10,14 44:6,13 45:13,14,15,19,20 47:2,21 48:14,20 50:3,16,18,21 51:3 51:12,19,24 52:3 52:12 53:6,6 95:20 96:23 148:19 149:16 152:2,11,15 153:8 153:18 154:7,10 154:15 157:9 158:7 182:15
year 133:6 137:16	zhu's 40:3,14 52:8
yearly 136:4	zone 23:8
yep 4:14 87:12 101:25 103:13 113:15	
yesterday 11:19	
yield 74:13 90:23 125:20,25	
yields 104:6	
yoder 12:17 14:12 112:21 161:21 164:7,12,16 165:10 174:17,25 175:23	
yoder's 176:2,18	
york 1:14 2:9,9 3:16 186:2 187:2 187:18,25	

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF SEPTEMBER 1, 2016. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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